

JOINT MEETING OF THE  
ATLANTIC HIGHLY MIGRATORY SPECIES  
AND BILL FISH ADVISORY PANELS

JOINT MEETING

April 1, 2002

at

Holiday Inn  
Silver Springs, Maryland

MONDAY, APRIL 1, 2002

INDEX

TOPIC	PAGE
GREETINGS AND INTRODUCTIONS	
Christopher Rogers (Moderator)	3
ADOPTION OF THE AGENDA: PRIORITY TOPICS AND TIMING	
Christopher Rogers (Moderator)	19
BILLFISH ISSUES	
Christopher Rogers (Moderator)	33
ENDANGERED SPECIES ACT STATUS REVIEW:	
WHITE MARLIN; PROCESS AND TIMING	
David O'Brien	103

1 (1:19 P.M.)

2 GREETINGS AND INTRODUCTIONS

3 MODERATOR CHRISTOPHER ROGERS:

4 Welcome, everybody. How's the sound? Everybody can  
5 hear me? We had a little bit of a mixup with the  
6 configuration of the room and we need to know how  
7 many places we might be short. We did a quick fix,  
8 so to speak, with adding a couple of tables in the  
9 back. But they'll work on the room configuration  
10 again this evening. We just need to be able to tell  
11 them how many more places we need here in the main  
12 table.

13 Got any AP members that are not  
14 seated around here?

15 (No response audible.)

16 MODERATOR CHRISTOPHER ROGERS: All  
17 right. Well, I guess we're okay then. Well, I had  
18 circulated a draft agenda. I hope it got in  
19 everybody's hands sometime last week. Just again,  
20 as a reminder of the discussion we had at the end of  
21 last year's meeting that we do want to let the group  
22 have some autonomy, so to speak, in setting the  
23 agenda, but we didn't want to have everybody to come  
24 to the meeting having no idea whatsoever what would

1       be taken at what point in time.

2               So, we've sort of put this together,  
3       knowing the topics that were on people's minds,  
4       based on letters we had received, phone calls we had  
5       received, and we do want to make sure that we do get  
6       to all the topics that are of concern to folks. So,  
7       we will be going shortly into a review of the draft  
8       agenda that had been circulated.

9               Now, we did anticipate Rebecca being  
10       here, but she's at a meeting downtown and I guess  
11       we'll take her as she arrives, but in the meantime I  
12       wanted to introduce our new office director, at  
13       least relatively new from the perspective of the  
14       last time we had an Advisory Panel meeting, Mr. Jack  
15       Dunnigan, is well known to the panel. He's going to  
16       have a few opening remarks.

17              JOHN DUNNIGAN: Well, thank you very  
18       much, Chris, and on behalf of the National Marine  
19       Fisheries Service, let me welcome all of you here  
20       for the HMS and Billfish Advisory Panels meetings  
21       and look forward to a couple of very productive  
22       days' worth of discussion.

23              It is really nice for me to be able  
24       to see so many of you again, probably some of you I

1 haven't seen since the last time I was at an HMS  
2 Advisory Panel meeting a number of years ago, and it  
3 is good to be back.

4 Let me just say a couple of things.  
5 A number of people have said to me, Jack, you had  
6 the best job in the world, why would you have come  
7 to work for the National Marine Fisheries Service?  
8 And to tell you the truth, there are a whole range  
9 of reasons why I wanted to do it, but no small part  
10 of that really was my read of the need for the  
11 agency to do a better job than we have been for a  
12 long time across a whole wide spectrum of issues.  
13 And in particular, in the way that we get  
14 information into our decision making processes, and  
15 how we deal with members of the public.

16 Now, I'm not inventing anything when  
17 I say that to you. That is the mantra that Bill  
18 Hogarth has made as the characteristic of what he  
19 wants his stewardship of the National Marine  
20 Fisheries Service to be. And it was with a real  
21 desire to do what I could to help Bill achieve those  
22 objectives that I made the choice that I thought I  
23 would like to help here, if Bill thought that I  
24 could. And I've been given the opportunity. I'm

1       very grateful that he gave me that chance and I'm  
2       really looking forward to doing what I can to try to  
3       help him.

4               Obviously one of the major issues  
5       that we have to deal with within the Office of  
6       Sustainable Fisheries is our responsibility under  
7       the Magnuson-Stevens Act to be the fishery  
8       management planners for Atlantic Highly Migratory  
9       Species.

10              And I have to tell you that in the  
11       HMS staff, I was extremely glad to be coming back to  
12       a group of people that I knew from my own personal  
13       experience when I was here before were an  
14       outstanding crew, dedicated, smart, and very  
15       hardworking. And it's been really nice to be able  
16       to come back and spend time with these people --  
17       with Chris and with his staff again. And I have to  
18       tell you that as I've looked around throughout the  
19       rest of the office, the overall quality of the staff  
20       that we have are excellent.

21              Let me just highlight a couple of  
22       important issues that the National Marine Fisheries  
23       Service is working its way through now that don't  
24       just deal with Atlantic Highly Migratory Species,

1 but may be of interest to you and are important to  
2 how the agency does its job broadly.

3 First of all, Bill Hogarth is  
4 absolutely committed to improving the way that the  
5 National Marine Fisheries Service reviews and  
6 develops and promulgates regulations. We've been  
7 known for a long time, and I've said it when I was  
8 outside the agency, as the black hole. And there's  
9 no excuse for that.

10 We don't owe it to ourselves to put  
11 ourselves in the position of causing those kinds of  
12 problems. And we certainly don't owe it to the  
13 public at large, who have such a strong interest in  
14 the conservation and management of these resources,  
15 to maintain a regulatory process that is too hard to  
16 figure out, that is arcane.

17 What we like to be saying we're  
18 looking for is transparency and timeliness, so that  
19 the regional fishery management councils, the  
20 states, you folks who help us in the Atlantic Highly  
21 Migratory world, can see what's happening and can  
22 expect that decisions will be made on a timely basis  
23 that makes sense for the management of the  
24 fisheries.

1                   So, we call it the regulatory  
2           streamlining process. I don't necessarily like the  
3           word streamlining, because it implies that all you  
4           have to do is rearrange the chairs on the deck of  
5           the boat and somehow you'll miss the iceberg.  
6           That's a lot more to it than that. It's going to  
7           require a commitment on our part to more resources,  
8           to get the job done well. We are working within the  
9           administration to try to get those resources in out  
10          years. And it will require us to do summary  
11          organizing of our decision making and become a lot  
12          less redundant than we are now. And hopefully what  
13          will come out of this is an improved regulatory  
14          process that will get decisions made on a timely  
15          basis and get them made in a way where the public  
16          can understand what we're doing and see what is  
17          happened.

18                   We are also dealing on a very broad  
19          sense with issues relating to bycatch. I think we  
20          understand that if you were to look across the  
21          country at all of the fisheries that we have that  
22          the one issue -- well, there are a couple of issues  
23          that sort of cross-cut throughout, but bycatch is  
24          really one of the dominating issues, and it could



1 easily become the issue of the decade in deciding  
2 what to do with fisheries conservation and  
3 management.

4 So, there is a renewed sense within  
5 the Agency that we have to do a better job of  
6 meeting our responsibilities under the law with  
7 respect to bycatch, and provide for a better  
8 conservation of all of the resources that we have to  
9 deal with.

10 We're also dealing with the  
11 reauthorization of the Magnuson-Stevens Fishery  
12 Conservation and Management Act. It became apparent  
13 to us within the last ten days that the House  
14 Resources Committee really wants to move a bill this  
15 year, and they're trying to have a hearing in a  
16 couple of weeks, and so now we are madly scurrying  
17 to try to get a number of position papers done.

18 I can't really discuss what those are  
19 right now with you, but I can tell you that there  
20 will be the usual mix of technical amendments, but  
21 there will also be some very broad and substantive  
22 issues discussed within the agency. And you may  
23 find the National Marine Fisheries Service coming  
24 out with some stronger positions on some issues than

1 we've been known to take in the past at this stage  
2 of a reauthorization.

3 So, I've learned so many interesting  
4 things about this agency. I've learned a lot about  
5 Patagonian toothfish. I've learned a lot about  
6 Pacific whiting. And many other species. My focus  
7 was rapidly expanded from the Atlantic coast to  
8 include very many new things. But let me just say  
9 that -- you know, looking back as you have with  
10 different individuals who've served as the office  
11 director, what I call tell you is that on these  
12 issues, Highly Migratory Species, conservation and  
13 management, and on the United States position at  
14 ICCAT, I intend to be an active office director. I  
15 know that these are important issues for the  
16 director, and for Rebecca, and they're my bosses,  
17 and I think it's my job to help keep them on the  
18 straight and narrow and make their life as easy as  
19 possible, and I can't do that unless I'm involved.

20 So, I will be a person who's engaged  
21 in these issues and working with you, and I really  
22 look forward to it, because I think in many ways  
23 they're some of the most interesting and difficult  
24 that the National Marine Fisheries Service has to

1 deal with anyway.

2 So, I'm glad to be back. I'm looking  
3 forward to a good couple of productive days. I'm  
4 not going to run the meeting. I had my time running  
5 the meetings. Chris is going to do that. As  
6 Rebecca likes to say, I'm here to listen and learn.  
7 And help -- you know, hear firsthand the record that  
8 you're creating rather than just -- you know, get it  
9 from reading the minutes or reading staff reports  
10 that come by afterwards.

11 So, I look forward to working with  
12 you. If you had any general questions at this  
13 stage, I'd be glad to try to answer them. But  
14 again, thank you all for coming and I hope we have a  
15 good couple of days.

16 MODERATOR CHRISTOPHER ROGERS:

17 Thanks, Jack. I've been informed by Rachel that  
18 Rebecca will be here about 4:30. And I think Bill,  
19 what, is somewhere between Hawaii and California?  
20 Who knows? He's been doing quite a bit of traveling  
21 these past couple days, so I don't think Bill will  
22 have a chance to be here with us during the duration  
23 of the meeting, but Rebecca definitely will stop by  
24 later this afternoon.

1                   Since we do have some new members on  
2                   the panel, maybe we can just quickly go around the  
3                   table. Again, I wanted to make sure that all the  
4                   panel members, whether appointed or ex officio, are  
5                   seated at the table, or whether if you think that  
6                   somebody's not here, they will come, whether we need  
7                   to get the table arrangement reconfigured for  
8                   tomorrow. Is it too tight or are you guys all nice  
9                   and cozy? All right. So, we'll keep this  
10                  configuration in for tomorrow.

11                  Why don't we start -- myself, of  
12                  course, Jack Dunnigan, Chris Rogers, National Marine  
13                  Fisheries and start with Willy and go right around.

14                  WILLIAM ETHERIDGE: Willy Etheridge,  
15                  commercial, Billfish Advisory Panel.

16                  ROBERT MCAULIFFE: Bob McAuliffe,  
17                  commercial, from the Virgin Islands HMS.

18                  NELSON BEIDEMAN: Nelson Beideman,  
19                  Bluewater Fishermen's Association.

20                  GLENN DELANEY: Glenn Delaney. I'm  
21                  here as an alternate for Jack Devnew, who is a  
22                  commercial member of the Billfish AP.

23                  GAIL JOHNSON: Gail Johnson, Fishing  
24                  Vessel Seneca on the HMS Panel.

1 PETER WEISS: Peter Weiss, General  
2 Category Tuna Association.

3 RICHARD RUAIS: Rich Ruais, Tuna  
4 Association.

5 VIRDIN BROWN: Virdin Brown, --  
6 Caribbean Fishery Management Council and I'm on the  
7 HMS Advisory Panel.

8 DAVID CUPKA: David Cupka, South  
9 Carolina DNR.

10 HENRY ANSLEY: Henry Ansley, Georgia  
11 Department of Natural Resources.

12 DAVID WILMOT: David Wilmot, Ocean  
13 Wildlife Campaign.

14 RUSSEL DUNN: Russ Dunn, National  
15 Audubon Society and Ocean Wildlife Campaign.

16 SHANA BEEMER: Shana Beemer, Audubon  
17 Society.

18 RUSSELL NELSON: Russell Nelson with  
19 the Billfish Foundation.

20 JOHN GRAVES: John Graves,  
21 representing the ICCAT Advisory Committee.

22 ELLEN PEEL: Ellen Peel, the Billfish  
23 Foundation.

24 JOHN DORLAND: Johnny Dorland, the

1 Billfish Recreational.

2 ROBERT PRIDE: Bob Pride here for the  
3 Mid-Atlantic Fishery Management Council, billfishing  
4 and HMS.

5 ROBERT HUETER: Bob Hueter, MOTE  
6 Marine Laboratory.

7 SONJA FORDHAM: Sonja Fordham, the  
8 Ocean Conservancy, formerly the Center for Marine  
9 Conservation, HMS Panel.

10 MARK FARBER: Mark Farber, University  
11 of Miami, Billfish AP.

12 JAMES DONOFRIO: Jim Donofrio,  
13 Recreational Fishing Alliance.

14 JOSEPH MCBRIDE: Joe McBride, Montauk  
15 Boatmen's and Captains' Association, also  
16 representing New York State.

17 RICK WEBER: Rick Weber, South Jersey  
18 Marina.

19 RANDY BLANKENSHIP: Randy  
20 Blankenship, Texas Parks and Wildlife Department,  
21 Coastal Fisheries Division.

22 MICHAEL LEECH: Mike Leech,  
23 International Gamefish Association, HMS.

24 PAMELA BASCO: Pam Basco,

1 recreational, Billfish AP.

2 IRBY BASCO: Irby Basco, Gulf of  
3 Mexico Fishery Management Council, HMS.

4 ROM WHITAKER: Rom Whitaker,  
5 Hatteras, North Carolina, on the HMS.

6 WAYNE LEE: Wayne Lee, South Atlantic  
7 Council.

8 JILL STEVENSON: Jill Stevenson,  
9 representing Maryland Department of Natural  
10 Resources.

11 MAUMUS CLAVERIE: Mau Claverie, New  
12 Orleans, for the Gulf of Mexico Fishery Management  
13 Council Billfish AP.

14 ROSS KRAMER: Ross Kramer. I'm with  
15 the Fish and Wildlife Commission, Division of Marine  
16 Fisheries.

17 GLEN HOPKINS: Glen Hopkins,  
18 commercial HMS.

19 RUSSELL HUDSON: Russell Hudson,  
20 commercial HMS, representing the directed shark  
21 fisheries.

22 MARK SAMPSON: Mark Sampson, Ocean  
23 City Charter Boat Captain's Association.

24 RAMON BONFIL: Ramon Bonfil, Wildlife

1 Conservation Society -- OWC for HMS.

2 MODERATOR CHRISTOPHER ROGERS:

3 (Inaudible) open to the public at all times so we do  
4 have some other HMS staffers around, as well as some  
5 visitors from the public, legislative affairs, Coast  
6 Guard, General Counsel of Fisheries and welcome all.

7 We will have some defined periods for  
8 public comment during the course of the meeting, of  
9 course, but primarily the purpose of the meeting is  
10 for us, the Agency, to get some input from the panel  
11 members with respect to ongoing fishery management  
12 concerns and of course the need if any for  
13 amendments to the plans.

14 Just for the benefit of those new  
15 members, I thought I'd review quickly the history of  
16 the panel. It was authorized and in fact required  
17 first during the 1996 Sustainable Fisheries Act  
18 Amendments to Magnuson with the intent that the  
19 Secretary form advisory panels for all those plans  
20 and -- fishery management plans and amendments that  
21 would be subject to Secretarial jurisdiction with  
22 respect to HMS, the Atlantic Highly Migratory  
23 Species.

24 And the charge, of course, is to



1       advise the agency in terms of data collection and  
2       management measures with respect to conservation and  
3       management of the international -- or the Atlantic  
4       Highly Migratory Species.

5               As we all know, there is a very  
6       important international component, but this panel is  
7       really not intended to duplicate the wonderful panel  
8       currently run by John Graves with respect to the  
9       ICCAT Advisory Committee.

10              And I know there's a great deal of  
11       overlap, as we go to public hearings often, there's  
12       a spillover effect between domestic matters and  
13       international matters. But to the extent we can  
14       focus here in this panel on the domestic matters  
15       before us, the ICCAT Committee has already met in  
16       its spring session and John will be reporting  
17       briefly on the outcome of that meeting later on  
18       during our meeting.

19              Just a quick note. We did revise the  
20       SOPP's, our standard -- or statement of operating  
21       practices and procedures, with respect primarily to  
22       the terms, the duration of terms and the expiration  
23       of terms. We found we were a little bit convoluted  
24       in the fact that terms were expiring at different

1 points throughout the year, and it really played  
2 havoc with respect to scheduling a meeting because  
3 if you picked any date in particular, you could find  
4 that somebody's term was expiring just prior to the  
5 meeting or something like that.

6 So, we revised the SOPP's so that all  
7 terms expire on a calendar year, and to improve the  
8 ability to stagger the terms to provide for orderly  
9 turnover without losing all the corporate expertise  
10 of the panel, we established the billfish terms to  
11 be two years with one half expiring each year. So,  
12 some of you folks were notified of your appointments  
13 as one-year appointments, some as two. Those that  
14 are one year appointments, when they expire, they  
15 will be renewed as two-year appointments. So, half  
16 the panel will turn over each year. And likewise  
17 with the HMS, except given the number of folks on  
18 the panel, we set that up to be sort of a three-year  
19 rotation, with one third of the panel being renewed  
20 each year.

21 So, the fact that you were randomly  
22 selected for a one year versus multi-year term is  
23 immaterial. Nothing personal against you. It was  
24 just our way of getting this staggered process going

1 and you're certainly welcome to recompetete, so to  
2 speak, when your terms expire.

3 Okay. We will be presenting as we  
4 had done last year and in prior years, we will be  
5 presenting various updates on activities with  
6 respect to the fisheries and certain issues that  
7 have been raised to our attention as well as just  
8 some of the background information.

9 I believe everybody should have  
10 received via FedEx a copy of this year's SAFE  
11 reports, Stock Assessment and Fishery Evaluation.  
12 We do have more copies available and we'll make sure  
13 that more copies -- I don't think we had any boxes  
14 brought over today, but we'll make sure there's some  
15 boxes tomorrow if you want to take some home for  
16 other constituencies or didn't happen to bring yours  
17 with you. We'll make sure you get copies there.  
18 Okay.

19 \_\_\_\_\_  
20 ADOPTION OF THE AGENDA: PRIORITY TOPICS AND TIMING

21 MODERATOR CHRISTOPHER ROGERS: Now,  
22 what I did want to do first was adoption of the  
23 agenda. And again, what we wanted to do was put out  
24 a structure so to speak for the meeting, but not

1 necessarily preclude the panel from prioritizing any  
2 issues that were before the panel. We had set it up  
3 at the request of several of the Billfish Panel  
4 members to deal with billfish issues today because  
5 there's some meetings going on I believe in Florida  
6 tomorrow that folks wanted to get to.

7 So, we're pretty much committed to  
8 dealing with billfish today, but the rest of the  
9 agenda is somewhat flexible. And what I'd ask you  
10 to do is offer any comments at this point as to  
11 whether you feel the issues that are most important  
12 to yourselves and your constituencies are reflected  
13 in the agenda or if you just want to make sure it  
14 might be, if you're not familiar with some of the  
15 bullets that we put, sort of generally reflecting  
16 some of the issues that were sort of on our minds,  
17 just let me know and we'll make sure that we'll  
18 pencil it in and make sure it gets covered.

19 So, with that, I'll open it up for  
20 hopefully a brief discussion that we can adopt the  
21 agenda pretty quickly here. Wayne.

22 WAYNE LEE: Chris, last year we spent  
23 time talking about the integration of HMS with the  
24 ACCSP program. I don't see that issue on here and I

1       was just wondering if we could get an update at some  
2       time during this meeting as to progress that's being  
3       made and what you all's time line is for possibly  
4       getting that done.

5                   MODERATOR CHRISTOPHER ROGERS:   Okay.  
6       Well, I would put that in under miscellaneous issues  
7       for Wednesday afternoon, where we were going to give  
8       a brief overview of our logbook programs and efforts  
9       to collect more economic data.  So, that would  
10      certainly fit in with that data collection.  So,  
11      I'll make a note to have some updates.

12                   I know both Margo and Pat Cheeta have  
13      attended ACCSP meetings in the past and we'll make  
14      sure we get that covered.  Any other concerns?  Mau  
15      Claverie.

16                   MAUMUS CLAVERIE:  Yeah, Chris, thank  
17      you.  If time permits, I'd like to put on the agenda  
18      dolphin.  I notice that our charge here in the  
19      SOPP's is and incidental fisheries which interact  
20      with billfish, and dolphins certainly do.  That's  
21      what they love to eat, one of the things they love  
22      to eat, and we're about to get together and endorse  
23      a dolphin and wahoo -- but dolphin as a food fish  
24      fishery management plan.  I think it would be

1       appropriate to talk about what do these billfish  
2       have to eat.

3                   MODERATOR CHRISTOPHER ROGERS:   Okay.  
4       We could take that up during our billfish discussion  
5       this afternoon then, but just as a clarification,  
6       the South Atlantic Council -- that's a three-Council  
7       plan?  It's the South Atlantic, Gulf --

8                   MAUMUS CLAVERIE:   It's a joint plan.  
9       The South Atlantic is the lead and we're having a  
10      meeting to supposedly finalize it hopefully one more  
11      try in Atlanta.  When, Virdin?

12                  VIRDIN BROWN:   24th.

13                  MAUMUS CLAVERIE:   24TH.  It will be  
14      the first dolphin wahoo plan.  It's an original.

15                  MODERATOR CHRISTOPHER ROGERS:   So,  
16      again, just a point of clarification.  Any comments  
17      would be more appropriately directed to the Council  
18      with respect to that plan, but certainly to the  
19      extent we want to have a discussion of how Highly  
20      Migratory Species fisheries through either targeted  
21      effort that has a bycatch of dolphin or with respect  
22      to dolphin as a forage base potentially for other  
23      Highly Migratory Species that are of direct concern  
24      to this council, we can certainly discuss that.

1                   Okay. Henry.

2                   HENRY ANSLEY: Yes, I just wanted to  
3 follow up on -- I believe it was brought up in an  
4 early meeting regarding if a state has regulations  
5 that are more restrictive in state waters, and to --  
6 whether the more restrictive regulations would take  
7 precedence. I think that was a discussion Wayne Lee  
8 brought up. And I just wanted to follow up on that.

9                   MODERATOR CHRISTOPHER ROGERS: Okay.  
10 That's a very important and very complex topic. Let  
11 me just think of where we might be able to fit that  
12 in, make sure we get it covered. You want to try to  
13 at least touch base on that first thing tomorrow  
14 morning before we get into shark, just to sort of  
15 frame the issues and the questions and then maybe  
16 defer to a little bit later date when we get a read  
17 on how far into that subject matter we really want  
18 to go, because it does involve obviously many states  
19 and actually two pieces of legislation. There's a  
20 specific protocol for preemption under Magnuson as  
21 well as under Atlantic Tunas and they're somewhat  
22 different.

23                   So, let's just plan on a quick 15-  
24 minute introduction to the topic first thing off

1 tomorrow morning. And then we'll see to what extent  
2 the panel wants to really delve into the state  
3 federal jurisdiction issues.

4 Okay. Dave Wilmot.

5 DAVID WILMOT: Chris, in the past  
6 many of us have talked about the potential benefit  
7 of having a presentation on the research dollars,  
8 how they're being divided up and what priorities  
9 NMFS is setting and how they're setting those  
10 priorities. In talking with you, I understood that  
11 you were putting a summary together that would be as  
12 coherent and brief as possible. Is that available  
13 at this meeting? Is that something that you have  
14 that we could talk about?

15 I don't think I need to go into it  
16 here, but I really do think it would be very  
17 beneficial to get some feedback from a lot of the  
18 folks sitting around this table about the priority.  
19 And it would be good for us to hear and see what's  
20 driving your decisions in terms of dollars being  
21 spent on research, whether it's lawsuits, whether  
22 it's Endangered Species Act, et cetera.

23 MODERATOR CHRISTOPHER ROGERS: Well,  
24 unfortunately we don't have a document ready to



1 present. We've been doing a lot of homework, so to  
2 speak, looking at the various avenues for funding  
3 Highly Migratory Species research throughout the  
4 agency, and it's a very convoluted process, because  
5 it involves very many different line offices and  
6 even line offices on the other coast, so to speak.

7 I think Bill Hogarth -- I know he's  
8 mentioned in publicly, I don't know how many of the  
9 panel members were aware, but Bill Hogarth has  
10 appointed three persons within the agency that were  
11 somewhat removed from day-to-day HMS Management.  
12 Was it Donna Darm, Jim Coe and Rob McGinnis, all  
13 west coasters, so to speak, to do a review of the  
14 HMS program, the Atlantic HMS program. And they  
15 were going to look at some of these research and  
16 funding opportunities and certainly any problems  
17 that the Agency might have in terms of prioritizing  
18 research money.

19 So, something will probably be  
20 forthcoming from that review process. We can touch  
21 base on it here, but unfortunately I don't think  
22 we're in a position to have a detailed list of all  
23 the money that's spent and how it's spent, through  
24 what program. It's something that we really want to

1        get to, the Division members, we really do want to  
2        get something like that developed and to be updated  
3        on a continued basis, probably added to the SAFE  
4        report when we do get that opportunity.

5                Just as you noted, there are a lot of  
6        other pressing things that we need to do with  
7        respect to rulemaking and unfortunately litigation,  
8        as well, that sometimes take our minds off some of  
9        the longer term things that we try to do. But we  
10       can certainly try to at least mention some of that  
11       funding that does get directed towards HMS research,  
12       probably not till the miscellaneous issues again on  
13       Wednesday afternoon. (Inaudible) -- panel meeting  
14       but (inaudible).

15               JOHN DUNNIGAN: At this time next  
16       year I will promise you that. That's a fair  
17       question and we ought to have a more open way of  
18       everybody being able to discuss that. Because there  
19       are lots of tradeoffs, you know. I mean, HMS  
20       species against other responsibilities that our  
21       research centers have. We'll do that. That's a  
22       good idea, David.

23               MODERATOR CHRISTOPHER ROGERS: Okay.  
24       You heard the promise, so we better get to work.

1       Okay.   Sonja.

2                       SONJA FORDHAM:   Sonja Fordham, Ocean  
3       Conservancy.   I heard you when you said this was --  
4       we were supposed to focus on domestic issues, but as  
5       you know there are a number of issues that affect  
6       Atlantic sharks that aren't covered by ICCAT, and I  
7       was just wondering perhaps tomorrow morning or under  
8       miscellaneous issues if you could give us or have  
9       someone from the staff give us an update or some  
10      information on the international strategy for  
11      sharks.

12                      Specifically I'm wondering about what  
13      the U.S. has planned for encouraging implementation  
14      of the international plan of action for sharks, and  
15      what the process will be for updating and improving  
16      our national plan of action for sharks, which I see  
17      is in the document here.   And fulfilling our  
18      commitments for international work under the U.S.  
19      shark finning prohibition act.   And then finally any  
20      either bilateral discussions or agreements that we  
21      have in the works with Mexico for shared Atlantic  
22      stocks.   Thank you.

23                      MODERATOR CHRISTOPHER ROGERS:   We'll  
24      make sure those are covered tomorrow morning then,

1 with the shark discussion. Rich Ruais.

2 RICHARD RUAIS: Yeah, Chris, I was  
3 wondering what's your thinking on putting the  
4 angling category permit discussion and charter head  
5 boat issues under miscellaneous as opposed to under  
6 the bluefin tuna issues.

7 And a second question was what are  
8 you anticipating at the public comment period or  
9 what should we anticipate. We don't have any  
10 busloads coming or anything like that that you're  
11 aware of this year.

12 MODERATOR CHRISTOPHER ROGERS: With  
13 respect to the first part of your question, the  
14 charter head boat is now an Atlantic HMS charter  
15 head boat permit, so it's more than just bluefin. I  
16 know it initially had started as a bluefin tuna  
17 permit and then migrated or morphed, as they say,  
18 into an Atlantic tunas permit and now it's more  
19 robust, even so, as an Atlantic Highly Migratory  
20 Species charter head boat permit, and there has been  
21 some discussion in several of our recent rulemakings  
22 and data collection discussions with respect to  
23 making that same transition for the angling  
24 category.

1                   So, that's what the intent, and  
2                   because it was more than one species, that's why it  
3                   was put under miscellaneous. But certainly there  
4                   are many of the folks who get those permits because  
5                   of their activities in the bluefin tuna fishery.

6                   So, to the extent that we have time,  
7                   maybe we could touch on them with respect to  
8                   bluefin, but again it's more of a multispecies  
9                   discussion that we intended.

10                  With respect to public comment, we do  
11                  know that there's a great deal of concern with  
12                  respect to allocation, not only with our recent past  
13                  experience with bluefin tuna and setting up an  
14                  effort control program and in a sense undoing that  
15                  over the last several years, we went through a  
16                  rulemaking process in response to some accelerated  
17                  fishing activity and catching the quota up in the  
18                  mid '90s to sort of slow the fishery down and  
19                  increase fishing opportunities as the fish migrated  
20                  throughout their range, and New England and Mid-  
21                  Atlantic and on into North Carolina waters on the  
22                  return trip, so to speak, in the late fall and early  
23                  winter.

24                  And the fish really haven't

1       cooperated in the last several seasons and it's  
2       caused us to revisit our effort control schedule and  
3       catch limits and things like that.

4               So, we do know there's a lot of  
5       interest in it, not only in the early season but  
6       also in the late season, and we're aware that a lot  
7       of members of the public would be in attendance to  
8       discuss bluefin tuna, particular some folks wanted  
9       to come up from North Carolina.

10              So, we have set up tomorrow evening,  
11       after dinner, as a public hearing session, so to  
12       speak. It's not a proposed rule per se that we're  
13       having a hearing on, but just to hear some views of  
14       the public. We do try, again, since this is a  
15       meeting open to the public but we do primarily want  
16       to hear from the panel members themselves, we do  
17       want to provide certain portions of the meeting,  
18       certain opportunities for the public to speak so  
19       that the panel can hear the comments and concerns  
20       expressed by the public.

21              Certainly we do expect that as panel  
22       members you are in tune, so to speak, with your  
23       respective constituencies, but sometimes you can  
24       benefit from hearing from so-called other

1       constituencies as well.

2               So, again, that's our plan is to have  
3       a presentation by staff with several of the issues  
4       that have come up in recent years, recent months,  
5       then having after the break an Advisory Panel  
6       discussion primarily and then the public comment  
7       period in the evening session.

8               And in fact, because of the public  
9       comment period we plan for tomorrow evening is to  
10      actually open up on Wednesday morning before we get  
11      into bycatch issues with any follow-up discussion by  
12      the panel members based on the input from the public  
13      on Tuesday evening.

14              So, we'll have reflections by the  
15      panel as a -- first off on Wednesday morning, based  
16      on the public comment session on Tuesday night for  
17      bluefin tuna issues. Joe McBride.

18              JOSEPH MCBRIDE: Thank you, Chris.  
19      Joe McBride. I'd like to support Rich's request for  
20      the charter head boat issues, angling category  
21      permit issues be moved up to the bluefin tuna area,  
22      where the other aspects of the permits are not as  
23      potentially controversial as would be the bluefin  
24      part of it, so -- and it would give us a little more

1 time.

2 I'm very leery at 2 o'clock, and many  
3 of us have to be at airports two hours ahead, that  
4 there's going to be much time for discussion on  
5 Wednesday afternoon for an issue that's so important  
6 to our industry.

7 MODERATOR CHRISTOPHER ROGERS: We'll  
8 pencil that in then for at least an introductory  
9 discussion on the [GAP IN RECORDING] hear from some  
10 of our colleagues from the Gulf of Mexico with  
11 respect to the moratorium on the for hire sector and  
12 see where that's going and how that might either be  
13 supported by or in conflict with the HMS permitting  
14 program. And clearly that's more than bluefin tuna.  
15 So, we will have to revisit that, so to speak. We  
16 can deal with it on bluefin tuna specific issues  
17 first, but then broaden the discussion later on.

18 Any other comments on the agenda?  
19 Folks pretty much satisfied with the way it's set up  
20 then? Hopefully we'll get through it all. It is  
21 ambitious and I'll try to be as firm as possible.  
22 Sometimes I feel it's an awkward position. I guess  
23 it was easier for Jack as a moderator from the  
24 Commission. You know, clearly you were appointed



1 and invited here to provide input to the agency, and  
2 it sometimes seems a little bit awkward if the  
3 agency is cutting you off when you're trying to  
4 speak. But I will try to keep us on point.

5 And I just might make one reflection.  
6 I did get some calls after last year's meeting that  
7 some of the debate got a little too personal for  
8 some folks' taste. So, I do understand that folks  
9 have their interests and constituencies to  
10 represent, but again, let's try to respect others'  
11 opinions and if things do seem to be getting a  
12 little too personal I guess I will have to cut that  
13 off to make sure that doesn't escalate. And I only  
14 say that because of the follow-up calls I did get  
15 last year about the meeting.

16 So, with that, I guess we can get  
17 into our billfish issues and a little bit ahead of  
18 schedule, which is good. Pat Cheeta, can you assist  
19 me in setting up this computer here.

---

20  
21 BILLFISH ISSUES

22 MODERATOR CHRISTOPHER ROGERS: I did  
23 want to review briefly our rulemaking that I had  
24 hoped would be final by now, but since it's not

1       final, I thought we could open it up for a little  
2       bit with respect to final observations by the  
3       Advisory Panel. We issued the rule back in December  
4       and had some public hearings throughout the Gulf and  
5       South Atlantic region, as well as Mid-Atlantic, and  
6       did receive some comments.

7               Let's try to use that one. Hopefully  
8       we've got enough battery power. We seem to have  
9       misplaced our power cord here.

10              But again, this rulemaking was in  
11       response to the ICCAT recommendation from Morocco in  
12       2000 with respect to the marlin rebuilding program  
13       that did require the United States to monitor  
14       tournaments and also limit billfish catch or blue  
15       marlin and white marlin catch to 250 fish per year,  
16       including those landings made outside the tournament  
17       context.

18              We have had an ongoing tournament  
19       reporting program, tournament monitoring program for  
20       many years, and I guess we have the good fortune of  
21       having Doctor Mark Farber on the panel with us now,  
22       who was involved in the billfish program in his  
23       former life at the Southeast Science Center in  
24       Miami. But one of the big issues was how to get a

1 handle on landings made outside of the context of  
2 tournaments. We did get some comment at the ICCAT  
3 meeting in Morocco from several nations with respect  
4 to non-tournament landings and improving our ability  
5 to monitor billfish landings outside of the  
6 tournament context.

7 So, we had proposed that -- at least  
8 as an initial step -- that a call-in requirement be  
9 made for any billfish landings that were not being  
10 reported through the tournament. So, currently we  
11 have a requirement that tournament operators  
12 register with National Marine Fisheries Service and  
13 based on those tournament registrations we would  
14 select tournaments for reporting. Now, these would  
15 be all HMS tournaments whether it be a shark  
16 tournament, a tuna tournament or a billfish  
17 tournament.

18 Currently, all billfish tournaments  
19 are selected for reporting. So, there is a follow-  
20 up requirement that the tournament operator supply  
21 NMFS with some information on catch and effort.

22 We also included in that rulemaking a  
23 provision for incorporating the resurgence of the  
24 swordfish. I guess these slides are a little bit

1 out of order, but just to remind folks, that  
2 rulemaking did deal with swordfish, as well,  
3 particularly because of the increased amount of  
4 recreational fishing activity focused on swordfish  
5 on the east coast of Florida, and to some extent in  
6 the Mid-Atlantic.

7 So, again, the rule was issued in  
8 December. We had several hearings in January and  
9 February, and at this point we just wanted to review  
10 the comments that were received and see if there's  
11 any further thoughts that the panel members  
12 themselves had on where we go from here.

13 Just because the slides are in this  
14 order, I'll talk about swordfish first. We had  
15 proposed that any swordfish landed in the  
16 recreational fishery be called in. We set up an 800  
17 number in our headquarters office for the landings  
18 report. What we envisioned was that you would have  
19 to leave a phone number so that we could call back  
20 and confirm the information, and therefore sort of  
21 completing the verification process of the landing.

22 At the public hearings, we did hear  
23 some concerns about the adequacy of a call-in  
24 requirement, that it would be difficult to enforce,

1       that there really wasn't an incentive for folks to  
2       call in, but that it could be an important first  
3       step and it should be combined with other management  
4       measures to enhance monitoring of recreational catch  
5       of Highly Migratory Species, including our landings  
6       tags programs that we currently have as pilot  
7       projects with the State of North Carolina and  
8       Maryland; existing permitting programs, expanding  
9       those; again, existing surveys, whether they be the  
10      coastwide Marine Recreational Fishing Statistics  
11      Survey or an enhanced large pelagics survey.

12               But in working these programs in,  
13      there was a concern about avoiding duplication.  
14      Don't make people report twice, if it can be  
15      avoided, those sorts of concerns.

16               We had also proposed in that  
17      rulemaking a one swordfish per vessel a day limit.  
18      That was clearly the issue of greatest concern in  
19      terms of feedback to the agency. One of the  
20      concerns that had been raised prior to issuing the  
21      rule was that given that we had just closed a large  
22      area off the east coast of Florida to pelagic  
23      longline gear that the rod and reel sector was sort  
24      of filling the void.

1                   Now, there is a legal way to do that  
2                   with a commercial limited access swordfish hand gear  
3                   permit. The illegal way would be without a permit  
4                   to be landing swordfish in the recreational fishery  
5                   and selling those. And some folks commented that  
6                   there's an existing penalty for illegal sale and  
7                   that should be enforced and that there was no need  
8                   to put restrictions on the legitimate recreational  
9                   catch in terms of a restrictive bag limit to avoid  
10                  illegal sales, and deal with it for the offense that  
11                  it is, not for the offense that it was not.

12                  Also we heard that it was really an  
13                  allocation issue, not a conservation issue, because  
14                  the level of landings of swordfish in the  
15                  recreational fishery was not significant enough to  
16                  be of great concern with respect to the swordfish  
17                  rebuilding program that has been implemented by  
18                  ICCAT.

19                  We also heard that the limit of one  
20                  fish per trip would be too low for the time and  
21                  expense involved, not only for private recreational  
22                  vessels, but also for charters, particularly if they  
23                  have four or five or six clients on board, and that  
24                  they might need more than one fish to satisfy the

1 party.

2 Initially, the information we had was  
3 that for the swordfish that are being kept in the  
4 recreational fishery probably averaging certainly  
5 well above 60, 70 pounds. Some of them were closer  
6 to 100 pounds and larger.

7 There was one comment that we should  
8 reopen the limited access commercial hand gear  
9 sector to boost the economy. Again, in response to  
10 the closure and the impacts of the closure off of  
11 the east coast of Florida for pelagic longline gear,  
12 that allowing folks to get back into the commercial  
13 hand gear fishery might be some way to mitigate the  
14 economic impacts experienced from the pelagic  
15 longline ban closed area.

16 So, that was one comment that the  
17 number of limited access hand gear permits issued  
18 was not sufficient to allow that fishery to develop,  
19 so to speak, as a placeholder or substitute for the  
20 pelagic longline.

21 One alternative measure was -- that  
22 had been suggested was to increase the minimum size,  
23 as opposed to a catch limit, that the ICCAT mandated  
24 minimum sizes certainly prior to the age at first

1 maturity and that perhaps in the recreational sector  
2 that could be a means of limiting mortality on  
3 juvenile fish, if that was a concern, as opposed to  
4 a bag limit, just increase the minimum size above  
5 that which would apply to the commercial fishery.

6 Other folks have commented that the  
7 one fish limit would be a proactive approach and  
8 that folks could engage in catch and release after  
9 that limit was reached, and that reinforced the  
10 concerns that had previously been expressed to the  
11 agency that having a higher limit provides incentive  
12 for illegal sales when folks get back to the dock  
13 with more swordfish than they can handle, so to  
14 speak, for personal consumption or family  
15 consumption.

16 We did raise in that rulemaking the  
17 issue that Mr. Ansley had just mentioned, the issue  
18 of state federal jurisdiction, to the extent that in  
19 some instances the swordfish might be encountered  
20 closer to shore than three miles, and clearly within  
21 state jurisdiction and subject to state fishing  
22 regulations.

23 We do need to review the Atlantic  
24 Tunas Convention Act authority with respect to



1 swordfish. There had been some determinations made  
2 in the early years of implementing the Atlantic  
3 Tunas Convention Act and ICCAT recommendations with  
4 respect to tunas, particularly bluefin tuna,  
5 regarding applicability of federal regulations  
6 within state waters. But that has never been  
7 formally reviewed with respect to swordfish.

8 So, that does require that the  
9 National Marine Fisheries Service embark on a  
10 process. And again, it's unclear to us at this  
11 point to what extent these landings might be  
12 occurring in state waters anyway.

13 In that rulemaking, we also had  
14 indicated that the agency would like to work  
15 cooperatively with the industry on a mortality  
16 reduction program. This would be a nonregulatory  
17 outreach program doing brochures and having  
18 materials available to promote at shows and things  
19 like that, with respect to use of circle hooks and  
20 encouraging live release.

21 We did get some favorable comments on  
22 that, but also was mentioned that use of circle  
23 hooks was not deemed feasible for the swordfish  
24 fishery because of the way the swordfish do sort of

1        attack the bait, so to speak.

2                They had a tendency to get tangled in  
3        the leader as opposed to foul hooked by the J hook,  
4        so that the circle hook might not have any great  
5        benefit there. But certainly to the extent that  
6        circle hooks do end up lip hooking a fish as opposed  
7        to gut hooking the fish, it does help with  
8        survivability after release.

9                Comments were made that most billfish  
10       and undersized swordfish are already released alive  
11       anyway and that certainly the agency could help to  
12       continue to foster this, but we needed to recognize  
13       that this is not new, so to speak, that the industry  
14       -- the recreational fishing industry and the  
15       foundations have been promoting live release for  
16       quite some time.

17               On the other hand, we did get some  
18       comments that promoting catch and release fishing  
19       contributes to mortality, and again there are ways  
20       to mitigate that post-release mortality depending on  
21       the gear used and the methods of fishing, and that's  
22       again the intent of working with industry on that  
23       outreach program.

24               One thing I might mention, we had

1       formerly done this in adoption of the amendment to  
2       the Billfish FMP was designating that there was a  
3       formal catch and release program for billfish  
4       established under the auspices of the plan. And  
5       that was necessary because of the way the Magnuson  
6       Act defines bycatch.

7               And to some extent we should probably  
8       follow up with respect to swordfish and we already  
9       had something in place with respect to bluefin tuna.  
10      But just again to clarify, that a catch and release  
11      fishery for swordfish if formalized would obviate  
12      the need to get into bycatch discussions with  
13      respect to the recreational fishery.

14             We did propose a number of technical  
15      amendments and we did get some comment on these.  
16      One of the things we needed to clarify that  
17      authorized gear in the swordfish fishery,  
18      recreational swordfish fishery, would include rod  
19      and reel and handline gear. It was not clear the  
20      way the regulations were consolidated that there was  
21      a clear specification of what gear was appropriate  
22      and authorized in the recreational fishery for  
23      swordfish.

24             There was also a concern as to the

1 form of landing that would be permitted in the  
2 recreational fishery. The commercial folks are  
3 allowed to process a swordfish carcass to some  
4 extent at sea, by removing the head and the bill and  
5 fins and basically that's the dress weight carcass  
6 that is landed as common practice in the commercial  
7 fishery.

8 We had respecified for the purposes  
9 of facilitating release, live release in the  
10 recreational fishery, a lower jaw/fork length  
11 measurement as opposed to the weight measurement  
12 that had been the standard at ICCAT and in our  
13 regulations enforced in the commercial fishery.

14 There was some comment that perhaps  
15 there should be some versatility afforded the  
16 recreational fishery, similar to what would be  
17 afforded in the commercial fishery, that provided  
18 any one of the alternative minimum sizes was met  
19 when the fish was landed, then that would be  
20 appropriate to demonstrate that the fish was above  
21 the minimum size.

22 So, again, if the lower jaw/fork  
23 length was impossible to measure because the fish  
24 was processed, similar to a fish landed in the

1 commercial fishery, as long as the carcass weight  
2 was 33 pounds, then that would be appropriate in the  
3 recreational fishery.

4 So, again, it was a question of  
5 whether basically the same rules would apply in a  
6 recreational fishery as opposed to the commercial  
7 fishery with respect to processing at-sea of  
8 swordfish and the alternative means of demonstrating  
9 that you had complied with the minimum size, length  
10 versus weight.

11 We also clarified that the retention  
12 limits would apply to the charter head boat permits,  
13 so that if a retention limit was issued via the  
14 final rule, that that would be applied to the  
15 charter head boat sector, as well. Again, it was  
16 just a point of clarification because of the way  
17 that in the regulatory text the charter head boat  
18 permit had been subsumed under all the tuna stuff  
19 and had been sort of pulled out with respect to the  
20 more broad charter head boat permit for Atlantic  
21 Highly Migratory Species. So, we needed some  
22 clarification on how catch limits would apply to  
23 charter head boat permitted vessels.

24 Folks didn't tend to disagree with

1       that, as to specifying how the catch limits, whether  
2       they be for sharks, swordfish or tunas, applied to  
3       charter head boat permit holders, but did favor  
4       increased limits for the charter head boat versus  
5       the individual limit that might be applied to a  
6       private recreational vessel. Again, the point being  
7       that with respect to a charter with multiple clients  
8       that may not be fishing that frequently, you may  
9       need to have more fish landed on that particular  
10      trip to satisfy the clientele that doesn't get to  
11      fish as often as somebody who would have their own  
12      vessel and would be able to take multiple trips  
13      throughout a fishing season.

14               The final technical clarification was  
15      with respect to the billfish certificate of  
16      eligibility. That is a document that must track  
17      with billfish that is often for sale throughout the  
18      whole chain of custody, so to speak, until it  
19      reaches the final consumer.

20               And it wasn't clear in the  
21      regulations, although it was clear on the form --  
22      the model form that we issue to folks that request  
23      the form -- that it is a chain of custody form, has  
24      to be signed off at each juncture of a transfer.

1                   So that if you see billfish for sale  
2                   at a fish market, a grocery store or at a  
3                   restaurant, you should be able to ask for and see  
4                   that certificate. So, again, it was not a change in  
5                   the regulation, but it was a clarification in the  
6                   regulatory text with respect to that.

7                   UNIDENTIFIED: (Inaudible.)

8                   MODERATOR CHRISTOPHER ROGERS: Right  
9                   now. That was the last slide. So, that's basically  
10                  a review of the rulemaking and the comments we've  
11                  received. We have not obviously finalized that rule  
12                  yet, so if there's any further thoughts or  
13                  discussion on the part of the panel members, we're  
14                  here to listen on that score. So, Gail.

15                 GAIL JOHNSON: I'm just wondering how  
16                 you defined the handline. We know how a longline is  
17                 defined, but I don't know how you define a handline,  
18                 how many hooks and how it's set, things like that.

19                 MODERATOR CHRISTOPHER ROGERS: Well,  
20                 it is required to be retrieved by hand and two hooks  
21                 maximum. Any more than two hooks, it would fall  
22                 into the category of a longline.

23                 GAIL JOHNSON: What about all these  
24                 elaborate setups that they use for other fisheries,

1       like trees and things like that? I've never seen  
2       one. I've seen them in magazines, but there are all  
3       kinds of hooks trailing along behind a boat.

4               MODERATOR CHRISTOPHER ROGERS: Oh,  
5       with respect to trolling?

6               GAIL JOHNSON: And what's the  
7       difference between a handline -- once it's moving  
8       it's not a handline anymore?

9               MODERATOR CHRISTOPHER ROGERS: Well,  
10       no, the regulations don't address the movement of  
11       the gear. Basically the configuration of the gear.  
12       So, I think we're maybe talking about multiple gear  
13       configurations here. Greenstick fishing that you  
14       may have heard of or trolling with multiple baits in  
15       the water, daisy chain or something like that? Or  
16       bandit gear, used in some of the Gulf and South  
17       Atlantic fisheries?

18              GAIL JOHNSON: Well, up our way it is  
19       towed or trolled. I don't know recreational  
20       parlance very well, but --

21              UNIDENTIFIED: (Inaudible.)

22              MODERATOR CHRISTOPHER ROGERS: Okay.

23              GAIL JOHNSON: So, that is a trolling  
24       rig, which is different from commercial handline.



1                   MODERATOR CHRISTOPHER ROGERS: That's  
2                   correct. That would not be in the hand gear  
3                   definition. Typically, to my knowledge, that's  
4                   retrieved through a rod and reel, even though you  
5                   may have multiple baits. What do they -- they break  
6                   away as the fish strike, so to speak and -- maybe  
7                   some of our more avid Highly Migratory Species  
8                   recreational folks can clarify, but typically if  
9                   it's a rod and reel that's being used, that's in the  
10                  rod and reel definition, even if there's multiple  
11                  baits that are put out.

12                 Joe McBride.

13                 JOSEPH MCBRIDE: Thank you, Mr.  
14                 Chairman. And Gail, just to clarify, that these  
15                 rigs that you're talking about are trolled at high  
16                 speed. Generally swordfish that were trolled were  
17                 never brought at those speeds. The boats had to  
18                 slow down to almost an idle and get in front of a  
19                 tailing swordfish to put a bait in front of him, so  
20                 trolling the multiple rigs that -- these daisy  
21                 chains and these squid rigs, they're going like  
22                 eight and a half knots. The swordfish never come  
23                 after a bait like that, in most circumstances.

24                 Anyway, Mr. Chairman, you had

1       mentioned that recreational swordfishing, you  
2       clarified swordfish as a billfish under  
3       recreational. I see nothing in NMFS documents or  
4       even under the federal law that recognizes swordfish  
5       as a billfish. I'd be delighted that if we changed  
6       that and made them billfish, but they're not. So,  
7       why would they be considered billfish in the  
8       recreational sector and not billfish in the  
9       commercial sector, under law? It's right here.  
10      Thank you.

11                   MODERATOR CHRISTOPHER ROGERS: I  
12      think what I was referring -- I think what you  
13      thought I was referring to was this catch and  
14      release designation in terms of the recreational  
15      fishery. In other words, the regulations would  
16      formally establish a catch and release program in  
17      the recreational fishery for swordfish, to the  
18      extent that there would be a large number of  
19      releases that would not be classified then as  
20      bycatch.

21                   We're not designating a billfish and  
22      including it under the billfish catch and release  
23      program. We would just formally establish a catch  
24      and release program for swordfish to the extent that

1       either a tournament would require release of  
2       swordfish below some minimum size that wasn't going  
3       to be a tournament record or something like that,  
4       that would conflict with the Magnuson Act definition  
5       of bycatch and potentially either tournament rules  
6       or fishing club practice or something like that.

7               So, not that we would transfer  
8       swordfish into the billfish category, game fish  
9       status, all that kind of stuff.

10              JOSEPH MCBRIDE:   Okay.   Thank you.   I  
11       thought I heard you say that you were calling them  
12       billfish before.   Thank you.

13              MODERATOR CHRISTOPHER ROGERS:   Nelson  
14       and then Jill.

15              NELSON BEIDEMAN:   Yeah, Chris, to  
16       touch on a couple of the things that you had raised.  
17       Bluewater did put in extensive comment, but some of  
18       these issues weren't issues at that point, so they  
19       would have been included in our comment.

20              For one thing, on the daisy chain,  
21       you know, you're talking about trolling basically  
22       interacting with tunas.   But I think what Gail was  
23       trying to get at more overall is that there are a  
24       lot of different types of mini-longlines being

1       fished for swordfish, for tunas, for various HMS  
2       species and they are actually mini-longlines, and  
3       they're being fished from private boats, they're  
4       being fished by some charter boats, and our guys see  
5       that happening and it's very frustrating, especially  
6       when it's happening in areas that have been closed  
7       for conservation reasons.

8               But there are mini-longlining going  
9       on, not under permit, and in fact that was one of  
10      the most major questions that was brought up at a  
11      public hearing that Chris had in Florida, is how do  
12      you define longline, and how can we do what we want  
13      to do without being called longline. And then once  
14      we catch the fish, how can we sell them in the back  
15      doors of restaurants, you know, something that's  
16      illegal, how can we do that legally.

17             So, mini-longline is an issue, I'm  
18      afraid, not just in the straits of Florida, but  
19      along the coast and I'm personally aware of it off  
20      of New Jersey.

21             A couple of things. One, the hand  
22      gear directed swordfish permit issue. It was always  
23      our understanding, and we came explicitly to you on  
24      this in the past, is that if a vessel had a directed

1 swordfish permit that they could then use that  
2 directed swordfish permit for -- you know, hand gear  
3 or rod and reel or even harpoon, you know, fishing.  
4 And that that was not a problem.

5 UNIDENTIFIED: (Inaudible.)

6 NELSON BEIDEMAN: Well, maybe I  
7 misunderstood what you said, but they're talking  
8 about taking the directed sword permit and making it  
9 into a hand gear. Why would they need to do that if  
10 that's understood?

11 MODERATOR CHRISTOPHER ROGERS: I  
12 believe the comment was raised or the issue was  
13 raised by those who did not qualify for a limited  
14 access permit, and the premise was that the  
15 situation was such where folks who might want to  
16 participate in that fishery were not aware --  
17 certainly the qualifying requirement was based on  
18 income from commercial fishing, not necessarily  
19 landings of -- prior history of landings for  
20 swordfish. So, a lot of folks felt that they had --  
21 they'd missed the boat, so to speak, because of the  
22 conditions that were present in the fishery or the  
23 lack of the fishery, so to speak, at the point when  
24 we were going through the limited access program.

1 Now that the backdrop has changed, so to speak, with  
2 the time area closure and the availability of fish  
3 that it was something that NMFS should revisit,  
4 issuing further permits in that category.

5 In fact, some folks had said there  
6 was no reason to have limited access in the hand  
7 gear fishery and that it should be open access. So,  
8 again, it wasn't converting permits from one  
9 category to another. It was folks who did not have  
10 any permit whatsoever at this point.

11 NELSON BEIDEMAN: Okay. Well, that  
12 rationale would pertain to any limited access  
13 fishery, when decision to go to limited access is  
14 made, a line is drawn. And there are some that  
15 qualify and there are some that don't qualify. They  
16 may not have been aware, a few folks in Florida, but  
17 Florida demonstrated that overall they were well  
18 aware. There's lots of permits in Florida. Unlike,  
19 you know, in Puerto Rico where there may have been a  
20 problem in communication, Florida was not.

21 On the circle hooks, just something  
22 to report. Circle hooks, of course we all know work  
23 very well with tuna. We're not sure how they work  
24 with swordfish, and there is a group of boats that

1 we're expecting to do research at the Grand Banks  
2 using circle hooks extensively against, you know,  
3 standard J hook and trolls. So, looking forward to  
4 that research.

5 And on the lower jaw/fork length  
6 versus versatility, also I thought that that was  
7 understood is that if a fish met the -- you know,  
8 one criteria as opposed to the other, then you know,  
9 for instance, if it met the new lower jaw/fork  
10 length criteria, but didn't meet the coddle keel,  
11 then what you did is you kept the lower jaw and the  
12 fork of the tail on that particular fish so that  
13 that legal measurement was present when it hit the  
14 dock. Because that's been our instructions to our  
15 vessels.

16 MODERATOR CHRISTOPHER ROGERS: That's  
17 correct. The alternative minimum sizes are  
18 expressed as an or, as opposed to one or the other.  
19 So, as long as you met one of the expressions of the  
20 minimum size, the keel measure, lower jaw or fork  
21 length, or weight of the dressed carcass, then it  
22 would meet those requirements. And what we had  
23 proposed was to be a little bit more restrictive  
24 with respect to the recreational fishery of having

1 the lower jaw or fork length as the sole criterion  
2 for enforcement in the recreational fishery,  
3 therefore precluding any processing, so to speak,  
4 that would lead enforcement to have to use the CK  
5 measurement or a weight dockside, so --

6 UNIDENTIFIED: (Inaudible.)

7 NELSON BEIDEMAN: Thank you.

8 MODERATOR CHRISTOPHER ROGERS: Jill  
9 Stevenson.

10 JILL STEVENSON: I have a question,  
11 then a comment. The question is you brought up this  
12 issue of establishing a catch and release program  
13 for the recreational swordfish fishery. Chris, can  
14 you just briefly say what the process is for doing  
15 that? Does that require an FMP amendment or --

16 MODERATOR CHRISTOPHER ROGERS: Well,  
17 it could. We formerly adopted a catch and release  
18 program in the regulations for bluefin tuna prior to  
19 the 1996 amendments to Magnuson and prior to  
20 actually tunas being covered under Magnuson through  
21 issues of the plan. So, the regulations existed for  
22 bluefin tuna as well as sharks, particularly for  
23 white sharks, as a catch and release fishery. It  
24 sort of took on a new meaning with the SFA



1 amendments of '96, given the definition of bycatch.  
2 So, we formally adopted that in the billfish  
3 amendment.

4 I guess I'd have to defer to legal  
5 counsel as to whether we could establish it -- be a  
6 regulatory -- a framework regulatory amendment or we  
7 would in fact need to modify the HMS FMP to have  
8 that formal designation as catch and release program  
9 to avoid bycatch.

10 JILL STEVENSON: Thanks. I guess my  
11 point is that I think we need to have a public  
12 discussion about this. I think that probably there  
13 are some people around the table that don't  
14 understand what this really implies, which is that  
15 we have a recreational swordfish fishery operating  
16 in a swordfish nursery ground, and I'm not sure that  
17 -- I think some of us would be more comfortable if  
18 we could discuss what it means to just say that  
19 that's not bycatch, if they're releasing undersized  
20 swordfish in that area. So, I'd be eager to talk  
21 about it some more at another time.

22 MODERATOR CHRISTOPHER ROGERS: Well,  
23 certainly if you want to talk about that now with  
24 respect to a concern as to whether the taking of

1 juvenile swordfish should be avoided and could not  
2 be sort of accommodated in a catch and release  
3 program. If there's a concern about mortality, then  
4 clearly it's -- I don't know. I'm not an attorney,  
5 so I can't comment on the legality of establishing  
6 catch and release program in a situation where you'd  
7 be increasing mortality on those fish that are  
8 released. But certainly it clearly would violate  
9 the spirit.

10 So, if there is a great deal of  
11 concern on the part of the panel members with  
12 respect to fishing particularly in the east coast  
13 Florida area that has been closed to longline  
14 fishing for precisely that reason, the discard of  
15 juvenile swordfish, if it is a concern that  
16 fostering a catch and release program in that area  
17 would lead to inordinate mortality, which is what we  
18 tried to avoid with respect to pelagic longline  
19 closure, that is a problem, and we need to discuss  
20 that.

21 Okay. Let me go down a list. We had  
22 Bob McAuliffe.

23 ROBERT MCAULIFFE: I think I'll be  
24 talking quite a bit this trip, but working on the

1 description of the handline. Within my region,  
2 Puerto Rico and the Virgin Islands, better than 90  
3 percent of commercial fishing is done out of boats  
4 less than 26 feet. This is entirely a multispecie,  
5 multi-discipline fishery. You're going out there to  
6 catch anything and everything that can sell to feed  
7 your family.

8 We have a snapper segment that fishes  
9 for deepwater snapper, typically in 200 to 250  
10 fathoms. This is a multi-hook handline fishery.  
11 Most of the fishermen are so poor that they cannot  
12 afford a bandit or a rod and feel. This is a  
13 handline wound up on a spool, but they're fishing  
14 multi hooks, anywhere from eight to 24 hooks, which  
15 under longline qualifies as a longline, but it's  
16 definitely a handline.

17 A great percentage of the swordfish  
18 caught are caught on those rigs when the swordfish  
19 try to eat the snappers. Now, that single swordfish  
20 that that man may catch that day will feed his  
21 family for a week.

22 One of the things we'll be working on  
23 is finding a way that we can qualify these people to  
24 fish legally within the Caribbean region. I don't

1 know that we have anyplace else under the U.S. flag  
2 where this really applies. The is typical of the  
3 Caribbean EEZ. And this is one of the reasons that  
4 I've been badgering you guys for a long time. And  
5 more and more information is coming up about it.

6 In fact, I had some swordfish  
7 yesterday that was caught by a fisherman snapper  
8 fishing in 200 fathoms. The fish dressed out at 200  
9 pounds. But he was fortunate. He had a mechanical  
10 bandit. Otherwise, I doubt that he would have  
11 boated that fish.

12 But this is what we're up against.  
13 We have a unique commercial fisheries segment within  
14 the Caribbean that is not typical or seen anywhere  
15 else in the U.S. And we have been ignored and we've  
16 been ignored greatly, mainly because NMFS has not  
17 bothered or seen fit to gather data on this because  
18 it was not -- I don't know the reason why not, but  
19 it just hasn't been done.

20 So, by not having data, these  
21 fisheries do not exist in the minds of people at  
22 NMFS, and this has to be corrected. The same thing  
23 I keep bringing up about tuna for years now, that  
24 the United States catch of tuna is far greater than

1        what you report, simply because you're not counting  
2        fisheries like this that are far greater than you  
3        have any concept of.

4                MODERATOR CHRISTOPHER ROGERS:    I  
5        think here the question would be the definition of  
6        handline. I know there's been some issues with some  
7        of these folks having been aware of the permit  
8        requirement and others not. So, there's probably  
9        two issues that we're dealing with here is not only  
10       the hand gear permit that has been issued or not to  
11       several of the participants in this fishery, and the  
12       gear that would be authorized for them to use with  
13       that hand gear permit.

14               So, we do need to do some more  
15       research on this fishery, to the extent that they  
16       have permits and can be issued a logbook, we need to  
17       start getting some more information as to their  
18       level of effort and the catch and bycatch.

19               Now, if they're deepwater snappers  
20       are they covered under the snapper/grouper plan in  
21       terms of permits or logbooks?

22               ROBERT MCAULIFFE:    No, because you  
23       don't have that in the Caribbean EEZ.

24               MODERATOR CHRISTOPHER ROGERS:    Okay.

1           So, it doesn't extent to the Caribbean.

2                   NELSON BEIDEMAN:   Chris?

3                   MODERATOR CHRISTOPHER ROGERS:   All  
4           right.   We've got some other folks here first and  
5           then we'll get back to you, Nelson.   Let me see.  
6           I've got Mau Claverie, Jim Donofrio, Mike Leech and  
7           Rom Whitaker.   Mark Farber, as well.   Then I'll put  
8           you back on the list, Nelson.   So, Mau Claverie.

9                   MAUMUS CLAVERIE:   Thank you, Chris.  
10          I have several comments I wanted to make on the  
11          agenda item, which is billfish issues, monitoring  
12          tournaments, recreational reporting and dolphin.  
13          Swordfish is set for Wednesday at 11 o'clock, so I'm  
14          a little confused where are we at here?

15                   MODERATOR CHRISTOPHER ROGERS:   Yeah,  
16          we did --

17                   MAUMUS CLAVERIE:   Can we go on the  
18          agenda?

19                   MODERATOR CHRISTOPHER ROGERS:   We did  
20          throw swordfish into that rulemaking just to get it  
21          out for public comment and it really can be  
22          discussed further during that swordfish segment of  
23          the program.   So, let's try to get on with some more  
24          billfish discussion.

1                   MAUMUS CLAVERIE: Okay. I wanted to  
2 discuss tournament recreational reporting,  
3 monitoring and bycatch and dolphin. I don't know --  
4 you want it all at once or a little at a time? How  
5 do you want it?

6                   MODERATOR CHRISTOPHER ROGERS: Well,  
7 I'll listen to you as long as you'll talk, but maybe  
8 try to go to no more than ten minutes at a shot to  
9 get some other folks here.

10                  MAUMUS CLAVERIE: Bycatch has been  
11 mentioned. The legal description of bycatch in the  
12 Act is pretty easy and clear, and the intention was  
13 very clear. The guidelines screwed it up seriously  
14 by saying there has to be a catch and release  
15 program, and a catch and release program only exists  
16 if landing of that specie is totally prohibited.  
17 That totally screwed up the whole thing. So, to get  
18 it straight, you've got to amend the guidelines.  
19 And then it will be easy like the Act intended.

20                  You can dance around it and all, but  
21 I want to point out to you that two weeks after  
22 Penny took over the agency and Penny had been  
23 involved in the legislation that led to that  
24 amendment, and knew what it meant, that NMFS changed

1       its mind and lo and behold, the recreational  
2       billfish fishery is a bycatch no longer. It's, you  
3       know, and that's what was intended to begin and I  
4       assume the same thing is intended for swordfish, if  
5       people do catch and release them in the recreational  
6       fishery. All the garbage you've got to get out of  
7       the way is something you all have to do to get it  
8       straight.

9               There's been monitoring in the Gulf  
10       of Mexico on the recreational billfish fishery for  
11       years, and the catch per unit of effort monitoring,  
12       which involves knowing the fish that are landed and  
13       knowing the amount of effort in terms of hours  
14       trolled is how it's shifted out, the two implements  
15       that are needed there -- the two inputs.

16              I think ICCAT calls that phase 1 and  
17       phase 2, and we're obligated to phase 2, which is  
18       not only what's landed, but also the time spent  
19       trolling, or whatever the effort unit is going to  
20       be.

21              Effort is very hard to come by  
22       because when you use as a unit of effort hours  
23       trolled you do not count the hours fought -- taking  
24       fighting fish. You're not trolling while you're



1 fighting fish. You do not consider when you leave  
2 the dock and when you come back to the dock. You  
3 consider when you're actually trolling those lures,  
4 as the effort thing.

5 In '71, NMFS suggested that we  
6 started keeping effort in the Gulf, and we did. And  
7 we've got a string of effort that goes along with  
8 the landings that is -- well, since '71 that would  
9 be over 30 years, wouldn't it? And so that's a very  
10 important data string to be careful about, because  
11 if you lose it and have to start over, you have lost  
12 effort.

13 Effort basically leads to relative  
14 abundance. In other words, whether we get more fish  
15 or fewer fish. It doesn't tell you how many fish  
16 are out there. And so you want a constant string of  
17 effort and also a kind of a constant percentage of  
18 the actual landings that you're counting.

19 Now we have to count 100 percent of  
20 the landings because of the ICCAT requirement. But  
21 I urge you to not interfere with the effort part of  
22 it that has been well-established in the Gulf,  
23 because if you tamper with that you lose the  
24 relativity, so to speak, if that's not a real word,

1 but -- in this sense, but I think you know what I  
2 mean.

3 And so the reporting system where you  
4 call in on a non-tournament catch in my estimation  
5 will interfere with the effort reporting, because  
6 the way it works in the Gulf it's done through port  
7 samples, and they keep up with non-tournament as  
8 well as tournament landings. Elsewhere that's not  
9 done.

10 NMFS requests the tournament  
11 directors to give effort that's displayed in their  
12 tournaments, and I'm afraid that effort is not  
13 anywhere near real effort, the actual hours trolled.  
14 It's impossible in some tournaments to get that, and  
15 it's unlikely that most tournament -- the Chairman,  
16 is that what you -- whatever it is, actually know  
17 that. Some tournaments don't even know how many  
18 boats are involved in the HMS fishery or the  
19 billfish fishery, and so forth. So, you need to  
20 address those issues and our plea from the Gulf is  
21 to keep our system intact.

22 If you're going to have a call-in  
23 system that is required if the fish is not otherwise  
24 reported, then that may be the solution for the

1 Gulf. But you have to know how it was otherwise  
2 reported and that's through your normal NMFS system  
3 that for years has been operated out of the Panama  
4 City lab. A switch to a different lab would make a  
5 big difference. And that personally I would say  
6 don't do, but the Gulf Council has to move on that,  
7 but we have said keep this system going please.

8 We've also pointed out to you that  
9 there are several data gathering systems, permit  
10 systems existent in the Gulf and it's simply because  
11 many boats do many different things. And to please  
12 coordinate with the Council imposed permits and  
13 reporting systems, so that it doesn't double and it  
14 doesn't interfere. And the charter boat people's  
15 request is so that we only need one sticker on our  
16 window. We don't have to put so many stickers on we  
17 can't see out. That's our thing. So, those are the  
18 cautions and the requests from the Gulf Council.

19 The dolphin issue is personal to me.  
20 Billfish eat on dolphin. Billfish are overfished.  
21 Billfish need food. And hopefully and to build  
22 themselves back up and if the billfish populations  
23 become healthy again, to -- just to have basic food  
24 to eat on.

1                   And we learned during the Dolphin  
2                   Wahoo Management Plan process that in fact the  
3                   dolphin fishery is extremely healthy. It's so  
4                   healthy that NMFS I don't think has ever dealt with  
5                   a fishery of that nature before.

6                   And I'm not entirely happy or  
7                   comfortable with how to handle a fishery that was  
8                   described to us at one point as somewhere between  
9                   150 and 180 percent biomass MSY. Now, that's damn  
10                  near a virgin, untouched by human hand, fishery.  
11                  Okay? And it may be the only one like that, but it  
12                  certainly is existent that way.

13                  On the other hand, the present  
14                  language in the fishery management plan draft allows  
15                  -- sets the maximum biomass -- I mean the minimum --  
16                  come on -- the minimum biomass threshold at one  
17                  third the amount of fish that are out there now,  
18                  which is below MS -- the biomass at MSY.

19                  And to my way of thinking, that could  
20                  be not good for the billfish and the other Highly  
21                  Migratory Species that eat on these critters. And  
22                  you have a situation where the Councils are in  
23                  charge of the dolphin and the wahoo, and basically  
24                  are not all that interested in the HMS's because

1       you're the one who's paid to be interested in that,  
2       not the Council.

3               And so there has to be some I think  
4       very strong and positive input from you, who are in  
5       charge of the Highly Migratories, into the dolphin  
6       plan, which is dolphin wahoo, to be sure that your  
7       fish have something to eat. And that the Council  
8       fish aren't given all to the fishermen instead.

9               Now, that -- I don't think that that  
10       biomass got there from being overfished. I think  
11       it's been like that all along, and those big fish  
12       are used to eating those things and they ought to be  
13       kept there for them to eat. So, how you do it, I  
14       don't know, but you've got to do it quick because  
15       this plan is getting approved in Atlanta on the 24th  
16       with -- we can cut them down to one third of where  
17       they are now before the red flag waves. And that I  
18       don't think will be good at all for the highly --  
19       and I'm talking all the highly migratories, not --  
20       billfish and tuna and shark, everything, and  
21       swordfish and all.

22               So, you said you want to hear  
23       discussion. That's my discussion. God save the  
24       dolphin for the billfish, please, and the others --

1 tunas eat them, too.

2 MODERATOR CHRISTOPHER ROGERS: Okay.

3 Thank you, Mau. It's not a unique issue. We have  
4 similar concerns expressed with herring fishing in  
5 the Gulf of Maine and bluefin tuna forage as well as  
6 in the past with squid fishing in the Mid-Atlantic  
7 with respect to forage base for tuna, as well.

8 MAUMUS CLAVERIE: There's precedents  
9 set there in the Great Lakes. Their herring species  
10 is called what, an alewife or something?

11 MODERATOR CHRISTOPHER ROGERS:  
12 Alewife.

13 MAUMUS CLAVERIE: Alewife, I guess  
14 that's it. And there was a paper that I learned of  
15 in my Sea Grant years where there was an attempt to  
16 increase the take of the bait fish and it was  
17 determined that socially and economically it would  
18 be better to leave them in the water to feed the  
19 salmon that attracted the tourists. And so that  
20 paper, I guess you can find it somewhere, but that  
21 would be the precedent setter for that sort of  
22 situation.

23 JAMES DONOFRIO: Thank you, Mr.  
24 Chairman. Originally I wanted to just say that I

1        wanted to move on to billfish, and I'm glad we did,  
2        but anyway, Jack, will you be giving us an update on  
3        -- we had a little meeting, remember, on our bluefin  
4        ad hoc group and Dave Bamborees came in and told  
5        about the new system that LPS and the MRFSS is going  
6        to go to so we can get more accurate reporting,  
7        especially we have a concern with the HMS species  
8        now that we have this cap on the billfish. Are we  
9        going to be getting an update from either Dave or  
10       Jack during this time on the new system?

11                MODERATOR CHRISTOPHER ROGERS: I did  
12       ask Dave to be -- unfortunately he had some  
13       prescheduled meetings this week. I can give an  
14       update to some extent. Certainly it would have been  
15       better had he been able to be here. I can check and  
16       see if -- he had mentioned maybe Tom Sminkey, so  
17       I'll check and see Tom can come by maybe on  
18       Wednesday and talk a little bit about that. Okay.  
19       Mike Leech.

20                MICHAEL LEECH: Make a couple of  
21       comments on swordfish. Back about 1976, '77, when  
22       the public discovered the swordfish off South  
23       Florida, it was pretty much of a virgin fishery  
24       then, and the recreational fishery for swordfish

1       really took off.

2                   It was totally unregulated. There  
3       was no size limits. There was no bag limits. There  
4       was no regulation whatsoever. People came from all  
5       over the world to catch swordfish because they  
6       thought in their lifetimes they'd never have an  
7       opportunity to catch one. But they came,  
8       tournaments sprung up all up and down the -- not  
9       only in Florida, but up further north, and the best  
10      estimates I ever heard of the total landings of  
11      swordfish in those days was maybe 500.

12                  But even if that was off by 100  
13      percent and it was 1,000 swordfish, it's probably  
14      one percent of what the quota is today, recreational  
15      fishing was -- even in those days was not  
16      significant in the overall scheme of things.

17                  Now, for 20 years we've basically --  
18      it wasn't feasible to go catch swordfish. We're  
19      fortunate now that in the straits of Florida, it  
20      seems to be coming back. It's mostly small fish,  
21      but hopefully the size limit would increase over the  
22      years. But in any case, there is a modest fishery  
23      springing up and we hate to see regulations being  
24      piled on top of it in this very early stage. We



1 think it's premature.

2 First of all, the fishery is almost  
3 self-regulating. You've got a minimum size limit,  
4 but mostly the guys -- the fishermen, the  
5 recreational guys that have caught one or two or  
6 three or four, they're not looking for a 50 or 60  
7 pound swordfish anymore. They're looking for a  
8 larger fish, and for the most part they're going to  
9 release fish that are even above the minimum size  
10 limit. We've done some surveys down there, and that  
11 seems to be holding true.

12 To now propose regulations on a  
13 fishery that is perhaps half of one percent or maybe  
14 one percent of the total U.S. quota, it just seems  
15 very premature that there would be a whole regime --  
16 a management system set up in Washington.  
17 Everything has a cost to it, and to create a  
18 management system on something that will probably  
19 never ever be significant, it certainly will not be  
20 a conservation problem on what recreational guys  
21 catch on rod and reel. Mostly small boats are  
22 fishing. They're subject to the weather. They're  
23 mostly working guys that for the most part go out on  
24 weekends.

1                   So, I don't see it ever being a  
2                   problem. It is financially an important segment of  
3                   the fishing industry down there. But we just feel  
4                   it's very premature to be proposing any kind of  
5                   regulations.

6                   MODERATOR CHRISTOPHER ROGERS:

7                   Thanks, Mike. Rom Whitaker was next.

8                   ROM WHITAKER: My comment was dealing  
9                   with the swordfish, talking about minimum size. I  
10                  was in my mind thinking that somewhere that HMS  
11                  recreational fish had to be landed intact, there was  
12                  no mutilation. So, I think you might open the door  
13                  kind of if you let swordfish be dressed on the boat,  
14                  to keep it all pretty much across the board. So,  
15                  you know the guy's recreational, you know he's  
16                  commercial.

17                 But then I've got a couple comments  
18                 on the billfish effort. Of course Mau had some  
19                 interesting comments, and I support some of them,  
20                 but on the billfish effort, I think that tournaments  
21                 truly do show the true billfish effort because most  
22                 boats in our area, on the east coast anyway, are out  
23                 there trolling for HMS species, predominantly tuna  
24                 or dolphin, and sometimes the billfish is an added

1       bonus, but it would be hard to catch per unit effort  
2       by saying, you know, I'm out there trolling for a  
3       tuna and I may catch a billfish, but I'm not  
4       targeting billfish.

5               So, I think, you know, tournaments  
6       really do, because in tournaments most of the time  
7       there's incentive to catch a billfish, so all of the  
8       effort is towards that. And most of the time it's a  
9       set time from 9:00 to 3:00, or it's a set time and a  
10      set number of boats, so it's a very easy number to  
11      determine.

12             The logbooks. I know we've discussed  
13      it in last couple of years and certainly I'm not  
14      going to be happy about having to fill out the  
15      information, but I still feel like it's a valuable  
16      tool, and the sooner we get it started, the better  
17      we'll be to answer some of these questions about  
18      what's being caught out there.

19             So, also, on the dolphin I feel like  
20      there are a lot of dolphin out there now, but I feel  
21      like the dolphin numbers have really gone up in the  
22      last four or five years, and there have been a lot  
23      of fish. And of course the billfish numbers in my  
24      observations have not followed that. So, I do feel

1       like it's a food fish, but I feel like that the  
2       dolphin wahoo plan was adopted on the present catch  
3       levels and that I feel like that we don't need to be  
4       more restrictive. Thank you.

5                   MODERATOR CHRISTOPHER ROGERS: Thank  
6       you, Rom. Mark Farber.

7                   MARK FARBER: Thank you, Mr.  
8       Chairman. I guess I just want a clarification  
9       before, which I think we've had subsequent to a few  
10      people having spoken already, with respect to  
11      separation of billfish and swordfish. We keep -- it  
12      seems to me we keep coming back to swordfish. I  
13      thought the official line is swordfish will be  
14      covered when we do swordfish, and we should be doing  
15      billfish issues at this time.

16                  MODERATOR CHRISTOPHER ROGERS: Well,  
17      again, I did want to give the panel an opportunity  
18      to follow-up on that rulemaking that did address  
19      both swordfish and billfish issues in the  
20      recreational fisheries.

21                  We can speak more on swordfish issues  
22      later on, so -- you know, if we can move on to the  
23      billfish issues, we do have a break scheduled for 3  
24      o'clock, after which we wanted to have a brief

1 discussion of the petition to list marlin under the  
2 Endangered Species Act. And I think that's  
3 something that nobody wants to go away from without  
4 -- this afternoon without getting a good discussion  
5 on that.

6 So, let's try to finish up with the  
7 billfish issues and we can take up swordfish again  
8 during that agenda item later on.

9 UNIDENTIFIED: I'll pass at this  
10 point then, Chris. I don't want to get into sword.

11 UNIDENTIFIED: Thanks. Actually I  
12 appreciate the effort to talk about billfish, but I  
13 might not be here on Wednesday and you put it up on  
14 the screen, my friend. I'm sorry.

15 Just a quick question. Is the hand  
16 gear or this recreational swordfish fishery that has  
17 re-emerged in the straits of Florida, is that a  
18 listed fishery under Section 305?

19 MODERATOR CHRISTOPHER ROGERS: A  
20 listed fishery in the sense of authorized gear, the  
21 table? Well, previously, before we consolidated the  
22 regulations, when the swordfish regulations were  
23 stand-alone under Part 630, there was a permit  
24 requirement for the commercial fishery. There was

1 not a permit or reporting requirement in the  
2 recreational fishery. And that was the term that  
3 was used in the regulations, in the recreational  
4 fishery. And there was a definition for what  
5 recreational fishery was, and that was having rod  
6 and reel gear on board the vessel and only rod and  
7 reel gear on board the vessel. So, in this proposed  
8 rule we were trying to reclarify that, but also  
9 allow for the use of hand gear, recognizing that  
10 there was a significant component of the fishery  
11 that doesn't have rod and reel or doesn't use rod  
12 and reel gear.

13 UNIDENTIFIED: So, the answer is no?

14 MODERATOR CHRISTOPHER ROGERS: So,  
15 the answer is yes, in terms of the table that was  
16 developed by the National Marine Fisheries Service  
17 in part 600 relative to the authorized gear under  
18 each fishery management plan, but it wasn't clear in  
19 the part 635 regulations that deal specifically with  
20 this fishery. So, in the one sense yes, authorized  
21 gear is currently rod and reel. It's just not clear  
22 in the regulations. You have to go to two places to  
23 get the sense of that.

24 What is new and what we had proposed

1       was to include as we clarified that to include hand  
2       gear as authorized gear for the swordfish  
3       recreational fishery.

4               UNIDENTIFIED: Thanks. And then this  
5       question will apply to both billfish and swordfish.  
6       And this is on this call-in concept of source of  
7       gathering landings information on non-tournament  
8       billfish as well as I guess any recreational  
9       landings of swordfish.

10              And I don't participate in this forum  
11       very often, so I apologize if you've heard this all  
12       before, but it just seems like a remarkable proposal  
13       to me that in the case of billfish, the consequence  
14       for someone to report non-tournament billfish would  
15       be ultimately collectively the closure of the  
16       fishery, because of the limits that we have  
17       established through ICCAT. Okay. And the  
18       consequence of reporting a swordfish recreationally  
19       down in Florida might be to prevent you from selling  
20       that fish.

21              Why would anyone pick up the phone  
22       and report either? And is that the source of size  
23       selectivity, for example, in the swordfish fishery  
24       that's emerged in Florida? You said that the

1 average size is more like 100 pounds instead of 60  
2 pounds. I mean, is that our source of data is  
3 someone to pick up the phone and report --

4 MODERATOR CHRISTOPHER ROGERS: Well,  
5 our source of data right now is discussions at  
6 public hearings, meetings like this. We have  
7 somewhat anecdotal, we don't have any formal program  
8 with respect to logbooks. We do have occasional  
9 intercepts. But for the most part, this swordfish  
10 fishery is a nighttime fishery, so there are not  
11 dockside interviewers ready and waiting at 2  
12 o'clock, 3 o'clock in the morning.

13 So, we are trying to get a handle on  
14 exactly what's occurring in a more systematic way.  
15 A landing tag or landing card program that we have  
16 established as pilot programs for bluefin, we  
17 believe they're working very well, but they are  
18 expensive and they do require a significant buy-in  
19 on the part of the states in terms of an in-kind  
20 contribution with personnel as well as a buy-in in  
21 the private sector with the tackle shops and the  
22 bait dealers and dock folks, dock managers, to  
23 assist in not only the distribution of the tags, but  
24 also the collection of the landing cards.



1                   And it wasn't clear to us that -- at  
2                   least as an initial step, that we needed to try to  
3                   implement an expensive program that would involve  
4                   again the states and the private sector, until we  
5                   get a better handle on the level of activity and  
6                   what's being caught.

7                   UNIDENTIFIED: Let's divide the two  
8                   species. Looking at billfish, we're talking about  
9                   one species that's being -- you know, evaluated  
10                  right now by the Agency as a potential endangered  
11                  species. And you know, one of the responsibilities  
12                  of your agency under that statute is to be able to  
13                  know when an endangered species has been taken.

14                 And it would also seem remarkable to  
15                 me that you would rely upon someone -- I mean, if  
16                 there was someone here from the U.S. Fish and  
17                 Wildlife Service, I'm sure they'd get a kick and a  
18                 smile out of the thought that their monitoring  
19                 program of endangered species management would be to  
20                 ask people to call in when they take an endangered  
21                 species. That would -- you know, side on the  
22                 bizarre at this point.

23                   On the swordfish side, --

24                   MODERATOR CHRISTOPHER ROGERS:

1 (Inaudible.)

2 UNIDENTIFIED: There are people  
3 apparently that are very concerned about billfish.  
4 On the swordfish side of it, it would seem that --  
5 you know, I thought Mr. Leech's comments were  
6 excellent and I think there are a good basis for  
7 restoration of a fishery down there that once  
8 occurred, and it would indeed probably be  
9 insignificant if we knew what it was. But we'll  
10 never have a way to measure it so long as people can  
11 sell those fish, those fish will never get reported.  
12 And unless we have a very, very tight control over  
13 the sale of the fish and as soon as you allow sale  
14 at all, even for one fish, I think you pretty much  
15 obliterate your ability to monitor and enforce a no-  
16 sale provision in that fishery.

17 So, you know, I would hope and  
18 encourage Mr. Leech and others who are interested in  
19 a truly sport fishery to develop, that they would  
20 not try to also sell those fish at the same time,  
21 because it will completely compromise the  
22 conservation arguments that they will have about the  
23 fishery. We will never know if it's having a  
24 negative conservation impact. We'll never know what

1 size fish are really being taken, because they won't  
2 be reported.

3 And you know, to hear someone say  
4 that we're going to have -- people are releasing  
5 fish that are probably even larger than the minimum  
6 size, well, you know, maybe there are really special  
7 fishermen in Florida that catch and release 2 or 300  
8 dollar fish, but you know, I grew up in New York,  
9 and we know how bad people are there, so we wouldn't  
10 do that. Okay? If I caught a fish that was a legal  
11 size and it was worth 2 or 300 dollars at the dock,  
12 I'd probably sell it, as good a sportsman as I might  
13 be.

14 So, again I think a no sale rather  
15 than one fish per trip is the realistic choice that  
16 you should face. Thanks.

17 UNIDENTIFIED: To the point, I was  
18 saying that what you get from the tournament  
19 directors is not the units of effort that NMFS is  
20 basing their science on, which is hours trolled.  
21 And that was just verified by taking the time away  
22 from the dock or -- multiplying it by the number of  
23 boats, and that's the effort that the tournament  
24 directors are reporting. That's not hours in the

1 water trolling. That's a higher number. So, you're  
2 lowering -- you're falsely increasing the effort per  
3 unit of catch. Actually, it's unit of encounter in  
4 the recreational fishery. So, that's my point.

5 And the other thing is the --  
6 somebody mentioned that in the recreational  
7 swordfish fishery, did you say you got a comment  
8 about a minimum dress weight as a management measure  
9 on recreational? Was that really said?

10 MODERATOR CHRISTOPHER ROGERS: The  
11 minimum size applies. The question is --

12 UNIDENTIFIED: I understand that.

13 MODERATOR CHRISTOPHER ROGERS: -- how  
14 is that applied in the commercial fishery? There's  
15 alternatives. If it's dressed, you can have the  
16 dressed carcass weight, you could take the  
17 (inaudible) keel measurement, or if it's not dressed  
18 you could take the lower jaw or fork length.

19 Currently the regulations require  
20 that the fish is not processed at sea in the  
21 recreational fishery, as Rom had mentioned, for all  
22 species, HMS species, but there was a concern for  
23 product quality and equity, so to speak, between the  
24 commercial and recreational sectors. Some folks at

1 the Fort Lauderdale hearing had recommended that the  
2 agency allow the same latitude and the multiple  
3 means of enforcing the minimum size in the  
4 commercial fishery, allow that same latitude to the  
5 recreational fishermen. So that it could be dressed  
6 at sea as opposed to the length measurement, the  
7 weight measurement be used.

8 UNIDENTIFIED: All right. Well, my  
9 problem is how do you weigh a fish at sea? And if  
10 you land a fish and then cut him up to the dress  
11 size, how the hell do you know what that's going to  
12 end up being?

13 It seems to me like a very  
14 unrealistic type of restriction or management  
15 measure on a recreational fishery. It's just off  
16 the wall for that was my original thought. That's  
17 why I was wondering was that really a comment that  
18 somebody suggested you do that?

19 MODERATOR CHRISTOPHER ROGERS: Well,  
20 I didn't personally know the individual --

21 UNIDENTIFIED: I would speak against  
22 it because it's --

23 MODERATOR CHRISTOPHER ROGERS: -- or  
24 his motivation, but that was the comment that was

1       made. Whether the intent was for illegal sale and  
2       that's why they wanted to do that, I don't know.

3               UNIDENTIFIED: Okay. Well, I can  
4       understand a measurement, because you can measure a  
5       fish in the water and determine, but a dressed  
6       weight, you've got to dress him to see if it  
7       complies. And then it's a little late.

8               MODERATOR CHRISTOPHER ROGERS:  
9       (Inaudible.)

10              JAMES DONOFRIO: Thank you, Mr.  
11       Chairman. I know NMFS has got a problem with  
12       enforcement down there with some illegal fish, but  
13       from my understanding in Florida, in order to sell  
14       fish legally as a commercial vendor you have to have  
15       some type of -- it looks like a little credit card  
16       or an ID card. In any event, with all the different  
17       law enforcement agencies, obviously NMFS should be  
18       working with these other agencies to enforce the  
19       law, because it's not a practice that any of us in  
20       our community endorse. Okay?

21              But for people on this panel to  
22       demonize recreational fishermen that are  
23       swordfishing when NMFS has statistics that show I  
24       believe about a 98 percent compliance of the law, is

1       that -- am I correct, about 98 percent recreational  
2       people comply to the law -- I would say that we're  
3       pretty outstanding citizens doing our job there on  
4       the water.

5                   MODERATOR CHRISTOPHER ROGERS: I'm  
6       not exactly sure what regulation you might be  
7       referring to with respect to compliance, but  
8       certainly that's something that would be difficult  
9       to measure if there were things that were not  
10      observed by enforcement agents. But maybe we can  
11      talk on that later and clarify exactly what  
12      statistic you're citing. Jill Stevenson.

13                  JILL STEVENSON: Back to billfish. I  
14      just wanted to hear a little bit from --

15                  MODERATOR CHRISTOPHER ROGERS: I  
16      think that Jill had recommended that we not put  
17      swordfish in that rule when she was still in our  
18      employ, and maybe I should have listened to her.

19                  JILL STEVENSON: Billfish monitoring  
20      is actually what I wanted to talk about. There was  
21      some discussion -- I'm not sure if it was last  
22      year's AP meeting or a couple years back, but about  
23      landing tags and getting states involved and you  
24      know, how do you really get a handle on how many

1 fish are landed. And you know, we know LPS doesn't  
2 pick up very many billfish, mostly because not very  
3 many billfish are landed, but you know, also just  
4 because there are other things going on. So, if  
5 they're not in the right place at the right time,  
6 they're not going to pick up the billfish.

7 Has there been further work, Chris,  
8 from NMFS coordinating with states? I hope not, or  
9 I would have heard about it, but -- you know, states  
10 -- you know, obviously from Maryland, for example,  
11 we're working on the bluefin tuna tagging program.  
12 You know, there are a handful of marlin landed in  
13 Maryland in the summer and most of them are at a  
14 tournaments.

15 So, it would be relatively easy for  
16 us to get involved and for us to document, you know,  
17 however many fish are landed. I mean, we have state  
18 personnel at the white marlin open, anyway. It  
19 would be easy for us to get involved. But I'm not  
20 sure I see the merit in having one state do it if  
21 all of the states aren't going to buy in, or at  
22 least the important states that have, you know, a  
23 lot of billfish activity.

24 Could you just talk a little bit



1       about maybe coordination or how we could get  
2       together and work it out.

3               MODERATOR CHRISTOPHER ROGERS: Well,  
4       certainly NMFS is interested in coordinating with  
5       the states. In fact, both in the case of North  
6       Carolina and Maryland, with respect to bluefin tuna  
7       landing card programs, the states approached us.  
8       And we worked out a cooperative arrangement through  
9       either a grant or a cooperative agreement in both  
10      those cases.

11             We amended the regulations to be  
12      somewhat flexible with respect to meeting any  
13      recreational reporting requirement, to the extent  
14      that if a state comes to NMFS, and we can work out  
15      something that's a mutual benefit in terms of  
16      lowering cost or lowering the burden on the  
17      fishermen and yet still improving the data  
18      collection, we're certainly willing and able to do  
19      that, provided our budget allows, and it really  
20      depends on the extent of any kind of contributions  
21      by the state -- and as I said the real key component  
22      in both those pilot programs for bluefin tuna has  
23      been the private sector.

24             So, we're certainly willing and able

1 to work with the states, but it's nothing that we  
2 can impose on the states because it does require a  
3 commitment on the part of the states.

4 JILL STEVENSON: Could I just respond  
5 to that? I agree that's true, but you know, the  
6 states got involved on the bluefin front because the  
7 states had something to benefit from that. And in  
8 fact, in the billfish case it's the federal  
9 government that has something to benefit, which is  
10 real good data on billfish landings. And the states  
11 really don't have much to benefit from that other  
12 than, you know, general better billfish management.

13 So, you know, I don't foresee any  
14 Maryland fishermen calling to me -- coming to me and  
15 saying, you know, we want to go through this hoopla  
16 and tag our billfish instead of just calling in,  
17 which we may or may not do anyway. I mean, I just  
18 don't anticipate that happening.

19 I mean, as state fishery managers, we  
20 could recognize the problem and come forward, but it  
21 seems like if there was a coordinated effort, you  
22 know, if there could be some conference call or  
23 something bringing all the states together and  
24 saying, you know, who can participate. Because I'm

1 not -- there is no merit in just having Maryland,  
2 you know, tag billfish.

3 UNIDENTIFIED: Thank you, Mr.  
4 Chairman. One comment. I think my opinion is that  
5 any recreationally caught fish should not be allowed  
6 to be -- should be brought in full for a measurement  
7 and to qualify. The thing that I would like, I  
8 would like to have NMFS give me the definition of  
9 for my clarification, longliner, what is commercial  
10 longline, what's the commercial vertical line, and  
11 then give me the recreational definition. Because I  
12 mentioned -- a while ago someone mentioned about  
13 mini-longlines. I think someone said something about  
14 more than two hooks was considered a longline.  
15 Straighten me out on that.

16 MODERATOR CHRISTOPHER ROGERS: Well,  
17 basically it's what our -- our definition of  
18 handline is limiting it to two hooks. Pelagic  
19 longline gear or bottom longline gear has a separate  
20 definition entirely with respect to describing a  
21 main line and ganzes (phonetic) and suspended hooks.  
22 Certainly there's a distinction between pelagic  
23 longline and bottom longline, is the presence of  
24 floats to suspend it off the bottom and use of other

1 gear to control and monitor its position in the  
2 water column.

3 We do have our compliance guide -- do  
4 you have a copy with you?

5 CAROL BREWSTER: What I wanted Chris  
6 to say -- this is Carol Brewster --

7 MODERATOR CHRISTOPHER ROGERS: You  
8 can say it better than me.

9 CAROL BREWSTER: On Wednesday, when  
10 we talk about communications and outreach, I'm going  
11 to be handing out a draft compliance guide. For  
12 those of you who were here in '99, we did a nice  
13 compliance guide that was published in Commercial  
14 Fishing News I think it was, and we are revising  
15 that. So, on Wednesday I'll be handing out a draft  
16 one in order to get everyone's comments on that.  
17 And in that it talks about the definitions of  
18 pelagic longline. We are able to add in more  
19 definitions if you want. So, that's what I wanted  
20 Chris to say.

21 MODERATOR CHRISTOPHER ROGERS: Okay.  
22 Thanks, Carol. Well, it is somewhat complicated, as  
23 Glen had mentioned before, the Magnuson Act was  
24 amended such that authorized gear had to be

1 specified for each fishery under each fishery  
2 management plan. So, there is an authorized gear  
3 table that appears and then there's other gear  
4 restrictions and sometimes more specific definitions  
5 under each set of regulations for each --  
6 implementing each management plan. So, it's nothing  
7 that's static.

8 If we have problems in enforcing a  
9 gear restriction or find out that we're precluding a  
10 gear that merits use in a particular fishery, then  
11 we do need to update those regulations. So, again,  
12 maybe the compliance guide will give you a better  
13 feel for its -- compliance guide obviously is  
14 intended to be a laymen's term, so to speak, more of  
15 a question and answer format. Straight talk, plain  
16 language, that kind of thing, then the regulatory  
17 text. So that might be better to deal with it from  
18 that perspective in looking at the regulatory text  
19 definitions of each gear type and finding out that  
20 we have a whole bunch of gear being used that  
21 doesn't fit any of the definitions at all.

22 But again, the important part is to  
23 continually update what we consider authorized gear  
24 in each fishery, and to eliminate those gears that

1       should be eliminated and authorize those that should  
2       not.

3                   I had Russ Nelson.

4                   RUSSELL NELSON: Thank you. I think  
5       one of the problems you've had in Florida with --  
6       sorry, but I'm going back to swordfish -- sales, is  
7       that the sales have not been illegal. Florida has  
8       historically -- when the Councils generally have  
9       adopted regulations and established federal permits  
10      for harvest in excess of the bag limit, commercial  
11      harvest, Florida has historically required that  
12      Florida anglers, in addition to having the salt  
13      water products license that Jimmy referred to, the  
14      state commercial card, is required that if you're  
15      going to land and sell fish in Florida, you must  
16      have the federal permit.

17                  So, in the case of Spanish mackerel,  
18      king mackerel, the snappers and groupers, a Florida  
19      angler has to have the state licenses, but also must  
20      have the federal permit to come in to land in excess  
21      of a bag limit or to sell.

22                  That had never been done in the case  
23      of swordfish, largely because there was -- the  
24      problem didn't present itself until recently.

1 Nobody was catching swordfish who wasn't using full-  
2 fledged commercial gear.

3 I understand that the Commission in  
4 Florida has adopted a rule which would require the  
5 federal permit. They haven't filed that rule  
6 because they're waiting to see what NMFS is going to  
7 do with a bag limit, so they don't have to go  
8 through separate rulemaking if they need to adopt  
9 the bag limit.

10 But your problem has really not been  
11 illegal sale. Your problem has been that nobody had  
12 put pressure on Florida to require anglers to have  
13 the federal permit. And if you put a fine point on  
14 it legally, one could argue in east Florida -- in  
15 the east coast of Florida, southeast Florida, that  
16 you could take a fish in state waters.

17 So, you can't really make a case by  
18 saying it's impossible to catch a swordfish in state  
19 waters. It's unlikely, but it is possible. So,  
20 those fish have been able to be sold legally.

21 But you should, if you continue to  
22 coordinate with the state of Florida, you should  
23 change those ground rules soon so that those fish --  
24 I'm not saying the sales won't go on, but there

1       should be a lot less of them because they will  
2       become illegal.

3                   MODERATOR CHRISTOPHER ROGERS:

4       Thanks, Russ. Willy Etheridge.

5                   WILLIAM ETHERIDGE: At the ICCAT  
6       meeting about a month ago, after their presentation  
7       of what happened at ICCAT, there was a picture put  
8       up there and it was of a small swordfish. And I'm  
9       not going to swordfish. I'm going to marlin. Or  
10      billfish.

11                   As a young man working as a mate at  
12      Oregon Inlet back in the '50s and early '60s, I  
13      remember seeing my first real small billfish. And  
14      it came from the belly of a dolphin. I know that  
15      there was several times that when we would unload  
16      the dolphin after we got to the dock there would be  
17      chucks or parts of billfish in those dolphin.

18                   And we just had a man that I've come  
19      to respect a little bit make a statement that  
20      dolphin are at 150 percent of the maximum  
21      sustainable yield. And I know that the South  
22      Atlantic Council, and probably in conjunction with  
23      the Gulf Council, is virtually putting me out of the  
24      business commercial-wise catching dolphin.



1                   But I would say to the people at  
2           National Marine Fisheries, if we have one species of  
3           fish that I know personally myself, and I believe  
4           that you probably have somewhere in your science,  
5           that dolphin eat billfish, and I'd be real  
6           interested in hearing some of the charter boat  
7           captains say if they have ever seen this, I mean  
8           that could be one of the problems that we're having  
9           with billfish.

10                   You know, you have one group of  
11           people that are essentially focused on one fish,  
12           like the Billfish Foundation. You have another  
13           group of people that's focused on the commercial  
14           side of it, some of us sitting right here together  
15           on this end of the table, and the thing kind of gets  
16           distracted a little bit.

17                   But it's really disheartening to me  
18           that I can come and add what little bit of knowledge  
19           that I've got over the years, I got this appointment  
20           and I don't think I have a whole lot to offer other  
21           than I probably handled a many fish as anybody here  
22           and seen as much about fish as anybody here, that  
23           the very fact that we have one species of fish that  
24           eats another species of fish, and that is in

1        tremendous abundance and the other species of fish  
2        that it eats is not too much of abundance, we spend  
3        our time trying to protect that fish that is in  
4        abundance for what? So it can eat more of the fish  
5        that's not in abundance? I mean, I just have a  
6        problem with that. Thank you.

7                        MODERATOR CHRISTOPHER ROGERS: Okay.  
8        Russ Dunn.

9                        RUSSEL DUNN: I was actually going to  
10       compliment Mau for moving towards ecosystem  
11       management during his speech, but my comments really  
12       go toward both landings and mortality of billfish,  
13       and with regard to landings, I think Audubon and  
14       Ocean Wildlife think that the call-in number is a  
15       step in the right direction, but it does have some  
16       shortcomings that need to be addressed, including  
17       the possibility of double counting, but more -- of  
18       greater concern, the possibility of people not  
19       calling in, given the problems we've seen with the  
20       other call-in numbers.

21                       I would support Jill's comments about  
22       trying to get the Fisheries Service to talk to the  
23       states more about the potential for a landing tag  
24       program. I think that might be valuable, given the

1       limit that we have from ICCAT on the fish and the  
2       seriousness of the problem, if we go over our 250  
3       fish limit.

4               But we're also concerned about  
5       mortality and to that end not just landings, and to  
6       that end I think there really needs to be an effort  
7       to better quantify the universe of effort out there  
8       recreationally. And while, you know, the greatest  
9       -- the majority of mortality really comes at this  
10      point from longlines, there's no question, but I  
11      think the billfish recreational catch and release  
12      mortality is beginning to give us some concern,  
13      given the data we saw in the marlin ESA petition  
14      listing. If the estimates in there are accurate, we  
15      need to do more to really quantify what's going on  
16      out there.

17              And to that end I think we'd be  
18      interested in having the Fisheries Service look into  
19      potentially developing a general HMS recreational  
20      permit so we can get a better handle on how much  
21      billfish fishing is really going on out there, and  
22      obviously improving post release mortality Thanks.

23              MODERATOR CHRISTOPHER ROGERS: Okay.  
24      Thanks. They got the break materials set up back

1       there. So, let's just finish off with David Cupka,  
2       Randy Blankenship and then we'll take a break.

3               DAVID CUPKA: Thank you. I just very  
4       quickly wanted to speak to the issue that Jill  
5       raised lately or earlier. I know in South Carolina  
6       we spent an awful lot of effort trying to document  
7       every billfish that's landed in that state and  
8       provided that data to NMFS for a number of years.  
9       In fact, ever since Grant Bearsley and I worked on  
10      that back in the '70s.

11             But I would hope that NMFS would look  
12      to the states to try and get some of that  
13      information and tie into that, and I'd be willing to  
14      bet you that the information we're getting is a lot  
15      better than what you would get with the voluntary  
16      call-in type program, because we've built these  
17      relationships up with individuals over the years.  
18      We -- every week call the docks, places they have  
19      tournaments, and places where fish are landed, and I  
20      think we're getting real good information. But I'm  
21      -- you know, I don't think we're going to get  
22      information that good going through the system you  
23      envision, particularly in an area where we've been  
24      doing this for a long period of time and built up

1       these relationships. So, again, I would just  
2       encourage you to tap into that information, wherever  
3       you can, and to utilize it.

4               MODERATOR CHRISTOPHER ROGERS: Thank  
5       you, Dave. Randy Blankenship.

6               RANDY BLANKENSHIP: Yeah, this is  
7       again kind of along the same lines. When Jill was  
8       making her statement, she said that with tuna that  
9       some of the states that were involved in that  
10      program had something to benefit from participating  
11      in that with other fisheries. NMFS may be the one  
12      that benefits the most from collecting that data.

13              In that case, data collection should  
14      be coordinated and initiated by NMFS, and should  
15      probably also include funding, because as willing as  
16      we may be to participate in a program like that, the  
17      fact of the matter is, is that our resources are  
18      pretty much taken up already by our current  
19      monitoring programs. That's all I had.

20              MODERATOR CHRISTOPHER ROGERS: Yeah,  
21      it was clearly NMFS' intent to build on existing  
22      mechanisms. Certainly we were aware of the  
23      tournament monitoring program that is conducted by  
24      NMFS. One of the things that we envisioned in the

1 follow-up -- the call-back in terms of verifying any  
2 reported landings of marlin and swordfish over the  
3 phone was to gather that information from the  
4 anglers making the report, is to what extent are you  
5 involved in other programs, either state or with  
6 your clubs or organizations, and things like that.

7 So, this was again envisioned as an  
8 initial step, just to provide an outlet to those  
9 folks who may be landing a billfish or a swordfish  
10 and are not tuned in or plugged into any other  
11 reporting methodology. And we did recognize there  
12 would be some duplication, but it would be helpful  
13 to us to uncover what that is and design a longer  
14 term and more robust program.

15 Let's go ahead and take a quick  
16 break, we're about 18 minutes over from the break,  
17 and try to be back here in 15 minutes. Even though  
18 we had a half an hour scheduled, let's cut back to  
19 15 minutes.

20 [3:30 P.M. BREAK]

21 MODERATOR CHRISTOPHER ROGERS: All  
22 right folks, we're going to get started here.  
23 Please take your seats. What we will do now is we  
24 will get into the next item of the agenda which was

1 the potential -- or the petition for listing white  
2 marlin under the endangered species act. We can  
3 finish up our discussion to the extent that it  
4 hasn't concluded on the recreational monitoring and  
5 reporting after this presentation; but we did want  
6 to make sure that we get this presentation in and  
7 Rebecca did want to come in and make some remarks  
8 around 4:30. So we will just move ahead with the  
9 ESA presentation, and David O'Brien from our office  
10 of Protected Resources is going to lead this  
11 discussion.

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12  
13 ENDANGERED SPECIES ACT STATUS REVIEW:

14 WHITE MARLIN; PROCESS AND TIMING

15 DAVID O'BRIEN: Thanks, Chris. I'm  
16 passing along some handouts that I made for  
17 everyone. That will hopefully help answer some of  
18 the questions you have. There's three total.

19 Okay, as Chris said, my name is David  
20 O'Brien. I work for the Office of Protected  
21 Resources here in Silver Spring for the National  
22 Marine Fisheries Service. And I'm sort of the  
23 national point person for the white marlin listing  
24 petition. So, if you have any questions that come

1 along -- sorry? So, if you have any questions, I'm  
2 a good person to come to for -- I'll try to answer  
3 questions you have.

4 My goal today, I have probably about  
5 45 minutes before Rebecca comes in. What I want to  
6 do is go through some of the petition background,  
7 first of all, which I'm sure most of you are  
8 familiar with, but just take a couple of minutes and  
9 describe what the petition says, what it wants us to  
10 do; and then I want to spend a fair amount of time  
11 talking about the ESA listing process. Because I  
12 realize that if you don't work with it every day, it  
13 can be kind of a large, arduous process. I'm going  
14 to try to clarify some of the things we're doing and  
15 to show what we're obligated to do under the law,  
16 and how this procedure is going to progress over the  
17 next several months.

18 And finally I'm going to go a little  
19 bit into sort of the what if's. I can't go into too  
20 much into hypothetical territory, but I'm sure  
21 everyone's wondering what would happen if white  
22 marlin do end up being listed. So, I'll try to  
23 address some of those questions.

24 Just as background, we did receive a



1 petition from the Biodiversity Legal Foundation and  
2 from Mr. Jim Chambers on September 4th of last year.  
3 In the petition, they cite the bycatch in commercial  
4 longlines as a primary reason for the decline in the  
5 stock of Atlantic white marlin, and they show some  
6 graphs showing the decline in numbers and increase  
7 in fishing pressure that they got from ICCAT.

8 And in one of the handouts I gave  
9 you, the one that's stapled together, the thicker  
10 one, that actually has those graphs in there and it  
11 goes through some of the actual main points in terms  
12 of the main biological points the petitioners made,  
13 and so the points we used in our initial finding.

14 The petitioners go on to claim that  
15 the current regulatory mechanisms managing white  
16 marlin are inefficient or inadequate to protect the  
17 species, and therefore they need protection under  
18 the Endangered Species Act.

19 In any petition, whenever we receive  
20 a petition to list a species under the ESA, there's  
21 certain steps we have to follow according to the  
22 law. And these steps can sort of be summarized in  
23 three basic steps that are called the 90-day  
24 finding, the 12-month finding and the final

1 determination. And I'm going to go into each of  
2 these in some detail, but just to let you know where  
3 we are right now, we published the 90-day finding  
4 back in September. At that point we initiated -- we  
5 announced the initiation of a status review team.

6 In September, one year from the date  
7 of the receipt of the petition, we are obliged to  
8 come out with the 12-month finding. So, we'll be  
9 obviously coming up on that in the next few months.  
10 And then if necessary, there will be a final  
11 determination due one year from that 12-month  
12 finding, so September 2003.

13 I'm going to go through the process  
14 of what we do. At any point if I start -- if I  
15 don't make sense for whatever reason, if I go into  
16 jargon or something like that, feel free to  
17 interrupt and ask for clarification. But I do ask  
18 that any more general questions you hold off till  
19 the end, because hopefully they'll be answered  
20 throughout the course of the presentation.

21 Whenever we receive a petition to  
22 list a species under the Endangered Species Act, the  
23 first thing we -- the question we need to ask -- the  
24 first question we need to ask is does the petition

1 present substantial information that the listing  
2 action may be warranted.

3 Now, that bar is -- has been defined  
4 by us and the Fish and Wildlife Service as a fairly  
5 low back. We are just saying does this petition --  
6 does it have the information that this may be  
7 warranted. It's not saying that we think it should  
8 be warranted at this point.

9 If no, we simply publish a not  
10 warranted finding in the Federal Register and the  
11 process stops right there. But in the case of white  
12 marlin, we actually said yes. We did feel that the  
13 petition presented enough information that listing  
14 may be warranted, so we published a warranted  
15 finding in the Federal Register and we announced  
16 that we would initiate a status review. And that  
17 means we go onto the next step in the process, which  
18 is the 12-month determination.

19 And this is actually kind of in two  
20 parts. The first thing we need to do is conduct a  
21 status review of the species. And as of late last  
22 week, we actually finally put together the status  
23 review team. And that's actually in that same  
24 relatively thick handout I gave you, the very last

1 page, goes to the status review team members. And  
2 we can talk about that later, if you'd like.

3 But once we've assembled this team,  
4 they will get together and conduct their status  
5 review, assembling all the relevant information that  
6 we need to conduct this evaluation and decide  
7 whether or not listing is going to continue.

8 When we get this document, the status  
9 review document, from the review team, NMFS then  
10 publishes its 12-month determination. The question  
11 we need to ask at this point is, is the species in  
12 danger of extinction or likely to become so in the  
13 foreseeable future.

14 And again, we have an either or  
15 situation. We can either say no and at that point  
16 publish a not warranted finding, and again the  
17 process stops right there.

18 Or we can go on and say yes, we do  
19 feel the species is in danger of extinction, and  
20 therefore we publish a warranted finding and we'll  
21 say in a Federal Register Notice that yes, we  
22 propose to list this species under the Endangered  
23 Species Act.

24 At that point we'll seek public

1 comment for a minimum of 60 days and it could be  
2 extended -- it probably will be extended in this  
3 case, I'd imagine. There'll also be probably at  
4 least one public meeting.

5 If it is proposed for listing, that's  
6 not the end of the game right there. We have one  
7 more step we need to do, and that's the final  
8 determination. And the final determination must be  
9 made within one year of that proposed determination.  
10 So, we're looking at the earliest -- the latest, I  
11 should say, that we could make this determination is  
12 in September 2003. Right? 2003.

13 The question we ask at this point is  
14 simply after taking into account any new information  
15 that may have come up during the past year, since  
16 our proposed rule, is listing still warranted. We  
17 use the same criteria as we use at a proposed rule  
18 stage. And again, we have either no or yes. And in  
19 this case, if we do find yes, that it is warranted,  
20 the species will become an addition to the  
21 Endangered Species list.

22 So, that's sort of a quick rundown of  
23 the process. I guess at this point if there's any  
24 clarifications I can make up to this point, I'd be

1 happy to answer it. If not, I'll just continue.

2 Yes.

3 UNIDENTIFIED: Extending the comment  
4 period, does that delay the final date?

5 DAVID O'BRIEN: No, it doesn't.

6 UNIDENTIFIED: Okay.

7 DAVID O'BRIEN: Yes?

8 UNIDENTIFIED: One suggestion for  
9 possible hearing sites. I'd like to suggest one --  
10 at least one be held in the Caribbean -- either  
11 Puerto Rico or the Virgin Islands.

12 DAVID O'BRIEN: Okay. Thanks.

13 UNIDENTIFIED: I hope that you make  
14 sure that there's adequate notice publicly by --

15 DAVID O'BRIEN: Okay. We'll now  
16 continue. Oh, I'm sorry.

17 UNIDENTIFIED: I noticed that one of  
18 the possible actions here is warranted but  
19 precluded. Can you explain to me what preclusion  
20 means? It sounds like it could either be that NMFS  
21 is too busy or that there are competing petitions.

22 DAVID O'BRIEN: We rarely do  
23 warranted but precluded. In fact, I don't know if  
24 we've ever done a warranted but precluded. The Fish

1 and Wildlife Service does it fairly commonly,  
2 actually.

3 And basically what your first point  
4 was correct, as far as I understand it, is when you  
5 a say a species does merit listing; however, we  
6 don't have the resources, the personnel, the staff  
7 to actually put through the paperwork at this time.  
8 But again, we've -- I don't think it's going to be  
9 an issue for this case. Yes?

10 UNIDENTIFIED: So, precluded is more  
11 of a time factor probably than a final answer?

12 DAVID O'BRIEN: Right. It basically  
13 -- as far as I understand it, it just basically  
14 postpones the listing. It doesn't say it's not  
15 warranted. It just says we do believe it deserves  
16 listing, but we just don't have the time to do it  
17 right now, but we will do it in the future.

18 UNIDENTIFIED: Thank you. I wanted  
19 to know what was the criteria for the agency to pick  
20 the status review team? What was the criteria  
21 involved?

22 DAVID O'BRIEN: Well, in any status  
23 review team we try to get a balance of people to  
24 focus on the various biological aspects we need to

1 look at. We get people with ideally some sort of a  
2 knowledge of the stock structure of the species,  
3 with some knowledge of the regulations -- the  
4 regulatory mechanisms that are affecting the  
5 species, that sort of thing.

6 And beyond that, I mean, I'm not  
7 really sure. We just get the people -- the most  
8 qualified people we possibly can who cover all the  
9 bases that we need to cover.

10 UNIDENTIFIED: All these people are  
11 billfish people then? Or HMS people?

12 DAVID O'BRIEN: I don't believe so.  
13 I think there's some from the west coast who are  
14 more general stock assessment people. I don't  
15 believe they have specific billfish knowledge. Just  
16 more population dynamicists, as I understand it.

17 UNIDENTIFIED: (Inaudible.)

18 DAVID O'BRIEN: Right, right. He's  
19 in Hawaii. Yes?

20 UNIDENTIFIED: Does the investigation  
21 or whatever follow the same type of decision making  
22 all the way through? Is there any Endangered  
23 Species, like whatever, the spotted eagle, the  
24 spotted owl or -- is this the same type of criteria



1 the same --

2 DAVID O'BRIEN: Right. Both --

3 UNIDENTIFIED: -- if it's in the  
4 water it's not a bit different?

5 DAVID O'BRIEN: Exactly, yeah. I'm  
6 going to go through some of the criteria in just a  
7 second, but basically yeah, the basic criteria we  
8 use is the same as the Fish and Wildlife Service  
9 uses for evaluating any potential Endangered  
10 Species.

11 UNIDENTIFIED: The same type of -- I  
12 guess I'm also referring to like the turtles? We  
13 had about the same situation here; is that correct?

14 DAVID O'BRIEN: Yeah, for any  
15 species, the same basic criteria. Obviously it  
16 depends on the different -- biology of the species  
17 differs, but the basic criteria are the same.

18 UNIDENTIFIED: Okay. Thank you.

19 UNIDENTIFIED: (Inaudible.)

20 DAVID O'BRIEN: No, the status review  
21 team -- they have to be either federal employees or  
22 some state employees are allowed, as well, if they  
23 have some sort of management connection to the  
24 species. But there's a law that basically limits

1 the amount of input that can come in from private  
2 individuals for the status review team, which is --  
3 I don't know if you want to go into the details of  
4 it, but basically for the review team itself we  
5 stuck to federal and state employees.

6 However, what's important to point  
7 out -- I might make this later, but since you  
8 brought it up, the status review team is not going  
9 to be operating in a vacuum. They can seek  
10 information and they should seek information from  
11 anyone who has pertinent information, pertinent  
12 knowledge, that can add to the discussion, the  
13 evaluation. So, they can contact people directly or  
14 through various ways to ask for any information  
15 that's necessary.

16 Okay. Let me continue then. Okay.  
17 This gets to the question you had on this side of  
18 the table. What are the factors we use for listing  
19 determination. In the Endangered Species Act, it  
20 lays out five listing factors that we have to use.  
21 And this is again for any species, either  
22 terrestrial or aquatic or marine.

23 It's a loss of habitat or reduction  
24 in range; overutilization; disease or predation;

1       inadequate regulatory mechanisms; or just other  
2       factors that aren't covered by those top four.

3               In the case of white marlin, right  
4       now, it seems like the most important ones for our  
5       decision will ultimately be overutilization, which  
6       includes overfishing, and whether or not the current  
7       regulatory mechanisms are adequate. I haven't heard  
8       anything about loss of habitat or disease really  
9       being a major problem. Of course, that could change  
10      with the status review team.

11              When we make this evaluation, there's  
12      certain things we can look at and we have to look  
13      at, and certain things we cannot look at. The  
14      language from the ESA says that determinations must  
15      be made solely on the basis of the best scientific  
16      and commercial data available after conducting a  
17      review of the status of the species. And I wanted  
18      to pull this part out. After taking into account  
19      those efforts being made to protect such species.

20              So, what this means is we need to  
21      rely on the biology, the regulations, the threats,  
22      those sorts of factors. But what is not taken into  
23      account at this point, and in any listing decision,  
24      is economic consequences, which I know is a concern

1       for everyone here. But that's something we are just  
2       obligated not to do. It's illegal for us to take  
3       that into account in a listing decision. Yes?

4               UNIDENTIFIED: If you can't take into  
5       account economic information, I asked the question  
6       before not of you, but I'm still confused about what  
7       commercial data means if there are no economics  
8       involved.

9               DAVID O'BRIEN: Right. I've heard  
10       that question before. It's a good question. What  
11       it means is we can take -- we can take commercial  
12       data on the biology or on the status of the species.  
13       For example, we could use data from logbooks of  
14       commercial longliners or from white marlin  
15       tournament records, that sort of thing. So, as  
16       opposed to using just data that's published in a  
17       scientific journal somewhere, we can take into  
18       account this other information, and we have to, but  
19       not the economics. Okay. Oh, I'm sorry.

20              UNIDENTIFIED: You used the term on  
21       your slide to protect such species. The last time  
22       we saw that it was -- I believe it said -- and I  
23       didn't go look at the Act, I forgot to do it, but it  
24       said to prevent decline. Is that -- what is the

1 exact criteria in the Act?

2 DAVID O'BRIEN: I believe this is the  
3 exact criteria.

4 UNIDENTIFIED: The word protect?

5 DAVID O'BRIEN: I may have got that  
6 from the PIECE policy. Maybe petition guidance. I  
7 can check on the exact language from that. I  
8 thought that was straight out of the ESA.

9 UNIDENTIFIED: Okay. Well, --

10 DAVID O'BRIEN: But basically, the --

11 UNIDENTIFIED: -- when we had the  
12 ICCAT meeting here, the next hotel, the language --  
13 I think it must be in the same -- from the same  
14 thing said to prevent decline or stop decline or  
15 something like that. Do you remember what it was,  
16 Nelson? It had to do decline, I know that.

17 DAVID O'BRIEN: Okay. Well, I don't  
18 know what the exact quote is. I'm sorry if I  
19 misquoted something, but the point that's trying to  
20 be made is that if a species, for example, is at a  
21 low level that might otherwise -- it may merit  
22 listing. If there is some sort of regulatory  
23 mechanism in place that we feel is a strong  
24 mechanism that is going to allow that species to

1 rebound, then that can be taken into account as  
2 against listing a species. So, it's not just to  
3 prevent decline, but we do want to see it --  
4 depending on where the species is at this point. I  
5 mean, if it's already at a high level, then maybe  
6 just preventing a decline is sufficient. But if  
7 it's down at a low enough level, we'd be looking for  
8 something to allow it to rebuild.

9 UNIDENTIFIED: Well, the reason it's  
10 important may be because many rebuilding plans that  
11 we have gone through in various fisheries, from the  
12 time the plan is implemented until the rebuilding  
13 actually starts, there may be some more decline.  
14 And I don't know -- that could be very important  
15 here.

16 DAVID O'BRIEN: Okay. Debbie just  
17 told me it is protect is the right phrase.

18 UNIDENTIFIED: Protect from what?

19 DAVID O'BRIEN: From whatever the  
20 factors are for its decline. It really depends. I  
21 mean, if it's protection against predation, it could  
22 be different than if it's protection against  
23 disease, for example.

24 UNIDENTIFIED: (Inaudible.)

1                   DAVID O'BRIEN: There's a couple of  
2                   bullets on the PIECE policy, that's it.

3                   UNIDENTIFIED: (Inaudible.)

4                   UNIDENTIFIED: Wouldn't the answer to  
5                   that protect from human caused mortality?

6                   DAVID O'BRIEN: Protect from whatever  
7                   factors were causing its decline to begin with. In  
8                   this case, in the white marlin case, likely that is  
9                   overfishing, because that seems to be the most  
10                  important cause of its decline right now. But in  
11                  general, if disease is the reason for the decline,  
12                  then that could be taken into account, too,  
13                  something to -- I don't know, prevent the disease,  
14                  inoculate them, I don't know.

15                  But in general it's just something to  
16                  -- if the species is at a low level, something that  
17                  would allow it to rebuild and that we're reasonably  
18                  sure will allow it to rebuild.

19                  NELSON BEIDEMAN: In your  
20                  introduction, you said that the primary reason for  
21                  decline was pelagic longline. Okay?

22                  MODERATOR CHRISTOPHER ROGERS: That's  
23                  what the petition cited.

24                  NELSON BEIDEMAN: Okay. But the

1 petition cites a lot of different things. That may  
2 be that international longlining is the primary  
3 reason for this species' decline. However, the  
4 petition also cites a range of from 180 to 1441  
5 metric ton estimates of U.S. recreational  
6 mortalities, because the petition sites a range  
7 between 12 and 32 percent post-release mortality.  
8 And the 1441 metric tons even dwarfs the total  
9 Atlantic landings from ICCAT, which is 908.

10 So, I don't know that we can just at  
11 this point make the statement that pelagic longline  
12 is the major source for the decline.

13 DAVID O'BRIEN: Right. If I did say  
14 that, I'm sorry. I didn't mean to say that. What I  
15 meant to say was that the petition -- I was quoting  
16 the petition saying what they are claiming is the  
17 primary cause.

18 NELSON BEIDEMAN: Right, but they  
19 double talk themselves throughout.

20 DAVID O'BRIEN: And I should have  
21 also made the point that the petition does cite --  
22 obviously it's an international fishery. They're  
23 not saying it's just a U.S. fishery. I don't think  
24 I made that clear initially.



1 UNIDENTIFIED: The sequence of events  
2 are you first do the review of the status of the  
3 species, then you take into account the efforts  
4 being made, and then you may or may not make a  
5 determination?

6 DAVID O'BRIEN: The biology --

7 UNIDENTIFIED: I assume -- go ahead.

8 DAVID O'BRIEN: (Inaudible) take into  
9 account -- get the wording of it. The way we take  
10 into account all this information is basically at  
11 the same time. It's not like it's a sequential  
12 thing. We look at the biology and the management  
13 and the threats all at the same time in our listing  
14 decision.

15 UNIDENTIFIED: In terms of then if  
16 you found after the review of the status of the  
17 species it was not warranted, the process stops;  
18 correct?

19 DAVID O'BRIEN: Well, again, we take  
20 into account all three of those factors  
21 simultaneously. So, if we found that the regulatory  
22 mechanisms were also such that that didn't warrant  
23 listing, then we would do the not warranted finding.  
24 But we take into account all three of those at the

1 same time.

2 UNIDENTIFIED: Okay. But if you  
3 found that biologically after reviewing the status  
4 of the species that it was in fact so declined that  
5 you could say it was endangered, even though you  
6 haven't made that determination yet, but then  
7 subsequently or at the same time you found that  
8 there were adequate efforts being made to protect  
9 such species, then theoretically you would not make  
10 a determination to list; is that correct? So, even  
11 though you meet the status of the stock -- the  
12 status of the species criteria, if you're okay on  
13 other protection measures you still may not get a  
14 determination to list?

15 DAVID O'BRIEN: (Inaudible.)

16 UNIDENTIFIED: Having such effect or  
17 going to have an effect or --

18 DAVID O'BRIEN: (Inaudible.)

19 UNIDENTIFIED: Can't bet on them.

20 Wow.

21 DAVID O'BRIEN: (Inaudible.) Okay.  
22 So, I just wanted to say that this next slide kind  
23 of gets to that question, so I just want to talk  
24 about it. There are some criteria that we use when

1       evaluating any kind of regulatory mechanisms and how  
2       adequate they may be to protect the species, and  
3       it's based on a policy we call the PIECE policy.  
4       It's in draft form. But there's two key points to  
5       it, and that is that we need to have a certain  
6       degree of certainty that the plan will be  
7       implemented and then that it will also be effective.

8               So, what that means, it's not an  
9       either/or thing. It's on a scale, you know, how  
10      heavily you weigh these conservation efforts.  
11      Something that's been in place for ten years and is  
12      shown to be effective and there's money for it and  
13      it's monitored has a lot more weight than something  
14      that was something put in place last month and  
15      should work in theory. So, there is that range and  
16      a balance to be struck in how you weigh those  
17      conservation efforts.

18             But I will say that the reason we put  
19      this policy in place is because in the past both the  
20      National Marine Fisheries Service and the Fish and  
21      Wildlife Service have decided not to list species  
22      based on conservation efforts that the court later  
23      found inadequate. They said that we were basically  
24      wrong to do that and we lost on those cases. So,

1       that's why we now we have this policy in place to  
2       give us some guidance on how we evaluate these  
3       policies.

4                   UNIDENTIFIED:   This may be  
5       precipitous, this question, maybe you're going  
6       there, but once the review team, the scientific team  
7       assembles the information and data, presents its  
8       report, are there then quantitative measures that  
9       come into the determination of whether listing is  
10      warranted, specific quantitative measures in terms  
11      of probabilities -- percent probabilities of  
12      populations being reduced to X level, and this is  
13      not a time or other things, or is ultimately the  
14      decision going to be more or less subjective based  
15      on the sum total of information?

16                  DAVID O'BRIEN:   We don't have any  
17      strict criteria right now to say that at five  
18      percent level of abundance that it's in danger or  
19      threatened.   We have nothing like that in place.

20                  We can use quantitative measures to  
21      evaluate the species, and it largely depends on how  
22      much data is available.   For certain species,  
23      there's a lot of data.   We can do a real rigorous  
24      analysis, a population viability analysis, and use

1       some numbers based on that. In other cases, we have  
2       to do -- make do with less data. We don't have the  
3       ability to do those kind of quantitative analyses.

4               But it is -- I wouldn't say it's  
5       subjective. I'd say that we don't have strict  
6       criteria in place. However, we do have precedence  
7       from previous listings, both us and the Fish and  
8       Wildlife Service, and we use those as a guide. And  
9       to a certain extent, the best professional judgement  
10      of the scientists who are reviewing this.

11             UNIDENTIFIED: Quick follow-up. --  
12      contrast with the Magnuson-Stevenson\* Act  
13      requirements for setting overfishing definitions,  
14      biomass thresholds, where there are fairly strict --  
15      whether or not they're accurate we don't know, but  
16      at least clear, quantitative measures, that sort of  
17      measurement won't come into place. It's going to be  
18      more of a -- well, what you just said, I guess.

19             DAVID O'BRIEN: Right, I'd say at  
20      this point probably not. We're actually -- there's  
21      another thing we're doing in our agency. We are  
22      looking at trying to get some more quantitative  
23      measures. They're not in place yet. And I don't  
24      anticipate they'll be in place for at least the

1       proposed rule stage of this listing. So, I don't  
2       think we'll have anything real strict in place for  
3       the proposed rule stage. I'm sorry. For the 12-  
4       month finding.

5                   UNIDENTIFIED: Yeah, I think I --  
6       unless I heard incorrectly, I think I need to refute  
7       something that Mr. Beideman said a few minutes ago.  
8       During my 23 years as a research scientist at NMFS  
9       in Miami, of which I guess out of 23 years the first  
10      five were in bluefin, the rest of the time was in  
11      swordfish and then billfish, and I worked in  
12      swordfish logbook data and Japanese longline data  
13      for many years in the early years, and then I was  
14      responsible for the recreational billfish survey in  
15      the Atlantic and Gulf of Mexico, I believe that the  
16      statement -- if I heard you correct, Mr. Beideman,  
17      about the pelagic longline not being the major  
18      factor with respect to mortality on white marlin  
19      from the U.S., I don't believe that's -- okay.

20                  NELSON BEIDEMAN: That's what the  
21      petition says on page 15 and page 23.

22                  UNIDENTIFIED: And you disagree that  
23      it's not the pelagic longline, that somehow it could  
24      be the recreational fishery?

1 NELSON BEIDEMAN: Well, all I'm  
2 saying is what is in the petition and it goes to how  
3 bad the petition may be, is they have a range from  
4 12 to 32 percent post release mortality and if you  
5 apply their estimates of post release mortality to  
6 their estimated billfish catches by the recreational  
7 -- the U.S. recreational, then the highest range  
8 dwarfs the ICCAT total Atlantic.

9 UNIDENTIFIED: Yes, that's because  
10 their estimates --

11 DAVID O'BRIEN: Excuse me. I've got  
12 to interrupt just for a moment. We can go back and  
13 forth on the quality of the data and what they cited  
14 or didn't cite. The status review team, part of  
15 their job is to look at all these data very  
16 carefully to make sure we're using the correct data.  
17 We're not going to just rely on what the petitioner  
18 said or didn't say.

19 UNIDENTIFIED: So, I think we are in  
20 agreement then because I agree with you that their  
21 data are incorrect as far as their estimates.

22 DAVID O'BRIEN: Okay.

23 UNIDENTIFIED: (Inaudible) you  
24 evaluate the certainty of other conservation plans

1 or plan in terms of the certainty of implementation  
2 and effectiveness. Is there any evaluation of the  
3 certainty that a listing will actually accomplish  
4 anything? Because in this case I think that's a  
5 relevant question.

6 DAVID O'BRIEN: That's not directly  
7 taken into account, no. We look at the biology of  
8 the species, look at the regulatory mechanisms. One  
9 thing we don't look at is what could we expect the  
10 net result would be of an ESA listing, and that's  
11 something that's in the Endangered Species Act as  
12 one of the factors -- they give five factors,  
13 reasons for decline, things we look at, and that  
14 sort of consideration isn't one of them.

15 UNIDENTIFIED: So, you look at the  
16 reasons for decline, look at other efforts to  
17 conserve, but if you -- you don't have to make a  
18 determination that your listing will address any of  
19 the reasons for decline?

20 DAVID O'BRIEN: Well, for example --

21 UNIDENTIFIED: Those are irrelevant  
22 considerations?

23 DAVID O'BRIEN: Well, for example, we  
24 have listings -- well, we don't, but the Fish and



1 Wildlife Service lists some species that are  
2 completely out of the United States authority to do  
3 anything about and --

4 UNIDENTIFIED: That's the situation  
5 we have here.

6 DAVID O'BRIEN: And they are still  
7 listed on the Endangered Species Act and if there  
8 were -- where there is some overlap, we are still  
9 obligated to do certain things under the Endangered  
10 Species Act. Whether or not it's fair or not is I  
11 suppose a matter of debate, but that's the way it is  
12 under the Endangered Species Act.

13 UNIDENTIFIED: With the listing  
14 process, also, once you have listed a species brings  
15 you into recovery planning and trying to recover  
16 that species with all the measures, and so if we're  
17 going to list a species, it's pretty sure that we're  
18 going to identify a recovery planning process and  
19 set some goals for recovery and establish what those  
20 threats are and what we can do about them, so --

21 UNIDENTIFIED: Right, but I think in  
22 the case that we have here you couldn't recover the  
23 species -- there is no recovery plan for the species  
24 under the authority of the ESA, under the reach of

1 the ESA. You cannot restore white marlin if you  
2 found it to be endangered by eliminating all sources  
3 of U.S. mortality.

4 DAVID O'BRIEN: Well, we find  
5 ourselves in that sort of situation -- analogous  
6 situation with sea turtles in the longline fisheries  
7 as well.

8 UNIDENTIFIED: Exactly.

9 DAVID O'BRIEN: But we have to make  
10 those efforts internationally to get other nations  
11 on board to reduce that bycatch. Once we figure out  
12 the solution domestically, I mean that's -- it's the  
13 problem we have, yeah, with Highly Migratory  
14 Species, endangered as well as --

15 UNIDENTIFIED: I think -- the point I  
16 wanted to make I think that Glen just made, and that  
17 is if you look at the information in our SAFE  
18 report, if you tied every U.S. boat, pelagic,  
19 longline, recreational to the dock, and allowed no  
20 fishing, according to this table you would only  
21 reduce white marlin mortality by 4.8 percent. So, I  
22 think the point that Glen was making is that no  
23 matter what we do, that there's no way we're going  
24 to recover white marlin. And it would appear to me

1       that you need another option, and maybe it's in here  
2       and I don't understand it, or maybe it hasn't showed  
3       up, but it would appear to me that you need another  
4       option here that says that instead of endangered or  
5       threatened, that we have an option that the U.S. is  
6       going to do whatever it can in our recovery plan to  
7       work with -- in the international community to work  
8       with ICCAT to work with the other nations of the  
9       Atlantic to develop a plan to try to recover white  
10      marlin, because we can't do it within the bounds of  
11      the United States. And I think our data shows that.

12                 DAVID O'BRIEN: Well, I think  
13      certainly any recovery plan -- well, if it were  
14      listed -- very hypothetical, if it were listed, I'm  
15      sure any recovery plan would highlight that, that  
16      you really need international cooperation probably  
17      to make a good dent in whatever is bringing down  
18      these species.

19                 But we are obliged to work within the  
20      Endangered Species Act, and there really is no  
21      provision in there to sort of address what you just  
22      said. If something's endangered, we have to take  
23      the protections domestically and then do our best to  
24      maybe use some of that pressure from our domestic

1 pressure to apply some international pressure to try  
2 to bring them back through ICCAT or some other  
3 means. But we really -- we don't -- we're stuck  
4 with what we get with the Endangered Species Act to  
5 a certain extent and we have to work within it.

6 MODERATOR CHRISTOPHER ROGERS: You  
7 know, it's sort of analogous to an ER, an emergency  
8 room. I mean, if you look at the National Marine  
9 Fisheries Service and all the authorities it has  
10 under Magnuson or international treaties that we're  
11 part of, those are the things that are supposed to  
12 fix this, you're absolutely correct, and they should  
13 have been fixed if in fact this is warranted as  
14 listed. But we're down to that stage now where  
15 we've been petitioned to do something that hasn't  
16 been done in other aspects of the agency. So,  
17 that's why it is a tough law, I mean, in that sense.

18 DAVID O'BRIEN: Yes.

19 UNIDENTIFIED: I don't know that all  
20 fishing that imparts mortality on white marlin in  
21 the Atlantic is done by nations that are members of  
22 ICCAT. Have you all examined that and do you have  
23 any information from any nations that are not  
24 members of ICCAT that indicate that there is

1 mortality or -- have you gotten that far into it?

2 DAVID O'BRIEN: I don't know. I  
3 mean, we just -- as I said, we just late last week  
4 assembled the status review team. This is the kind  
5 of -- exactly the kind of thing they'll be looking  
6 at to try to get a hold of all the data that's  
7 relevant. If there is non-ICCAT data out there that  
8 would help in our decision, then it's their job to  
9 track it down and use it. But I don't know off the  
10 top of my head. Yes?

11 UNIDENTIFIED: Am I understanding you  
12 to say that if and only if the white marlin is  
13 listed as an Endangered Species you will go to the  
14 international arena and try to pressure the other  
15 countries to do something similar?

16 DAVID O'BRIEN: Well, I would hope  
17 that even if white marlin is not listed that -- if  
18 we recognize there's a problem, we're going to do  
19 what we can internationally to remedy that problem.  
20 But as far as the Endangered Species Act is  
21 concerned, I mean that's really what -- all I'm  
22 talking about, where we're coming from.

23 UNIDENTIFIED: You're just dealing  
24 with what's within our ambit of control?

1                   DAVID O'BRIEN: Exactly.

2                   UNIDENTIFIED: But if you go  
3       transpose this to the international arena and use  
4       the turtle listing as an example, there's been poor  
5       compliance on the international scale and throughout  
6       the world but particularly for me close to home, so  
7       -- turtles are prized species and so whatever  
8       happens we may not have the kind of compliance that  
9       will lead to the rebuilding of the white marlin.  
10      So, it's a catch 22. But I'm just saying that for  
11      you to consider in your process.

12                  DAVID O'BRIEN: Thanks. I'm sorry.  
13      I don't know who was first.

14                  RANDY BLANKENSHIP: Along those  
15      lines, as gloomy as the Endangered Species Act  
16      sounds in this situation, and taking an example of  
17      the sea turtle situation, an example of success in  
18      the international arena has been the Kemps-Ridley  
19      sea turtle, where it has begun to rebound because of  
20      protection in Mexico.

21                  Now, granted, relatively speaking,  
22      it's much easier to protect a nesting beach in  
23      Mexico than it is probably to protect nursery areas  
24      for white marlin, but there are examples of success

1 in the international arena dealing with the  
2 Endangered Species Act.

3 ROM WHITAKER: Yes. In the second  
4 page it says take would be harass, harm, pursue,  
5 hunt, shoot, wound, kill, trap, capture, collect or  
6 attempt to engage in any such conduct. This  
7 includes incidental captures. Why, I fish every day  
8 for HMS species and I have the possibility of  
9 encountering a white marlin almost year-round. So,  
10 what I'm hearing is while you all are trying to  
11 figure out how to fix the process, it's not going to  
12 really make any difference anyway is that I'm out of  
13 business.

14 UNIDENTIFIED: (Inaudible.)

15 DAVID O'BRIEN: Okay. We're going to  
16 get to that a little bit in a minute, so let's get  
17 the other question.

18 UNIDENTIFIED: I just wanted to  
19 respond very quickly to Randy's comment about the  
20 relative success of the sea turtle Kemps-Ridley sea  
21 turtle restoration efforts. I would just note that  
22 a very profound distinction between what we have  
23 with the Kemps-Ridleys and any other really sea  
24 turtle situation with regard to longlining and

1       certainly with regard to the white marlin listing,  
2       is that you had actually a U.S. federal statute that  
3       banned the importation of seafood from countries  
4       that didn't take sea turtle protection measures  
5       comparable to those of the United States, a measure  
6       that has been debated quite extensively in the  
7       (inaudible) world trade organization.

8               Nevertheless, we don't have anything  
9       analogous to that with respect to the fishery that  
10      we're talking about right now, or with respect to  
11      the longline turtle interaction. So, yeah, it  
12      really is nice when you have an import ban to back  
13      up your sea turtle protection program, but we don't  
14      have that with these other species.

15             DAVID O'BRIEN: Okay. I know Rebecca  
16      Lent is going to be coming in in the next few  
17      minutes, and so I need to finish up. I think I have  
18      one last slide. It actually gets to the question  
19      that was raised over here. So, let me get through  
20      this and then with any remaining time answer any  
21      remaining questions.

22             And the big question right now is  
23      what happens if it is listed. If listed, as  
24      threatened or endangered, catch of white marlin



1 would be illegal. This protection would be  
2 automatic if it's listed as endangered. There'd  
3 have to be some special rules published if it was  
4 threatened, but the net result would almost  
5 certainly be very similar, if not the same.

6 There are some exceptions with this,  
7 however. One is for research or enhancement  
8 purposes. If you're doing a research study you  
9 could probably, you know, take some white marlin for  
10 that purpose. But also some incidental catch may be  
11 authorized through an Endangered Species Act  
12 Consultation, and that gets to what your question  
13 was. If something is listed as endangered or  
14 threatened, targeting that species would be illegal.  
15 I mean, in terms of white marlin tournaments, there  
16 would be a big effect.

17 In terms of initial catch, if  
18 someone's going for swordfish and tuna and they  
19 happen to catch a white marlin, then it really  
20 depends. I mean, some initial catch could be  
21 authorized under those circumstances, and it's very  
22 similar to turtles. I mean, it's not as if -- I  
23 know the turtle issue has led to some problems with  
24 the longline industry and gillnets, but it certainly

1       hasn't shut them down entirely. And so it may be an  
2       analogous situation with white marlin if it is  
3       listed, where there'd be restrictions almost  
4       certainly, but probably not shutting down the  
5       industry.

6                   UNIDENTIFIED: I thought on the west  
7       coast in some of the runs of salmon that are listed  
8       as endangered, isn't there some allowed recreational  
9       fishing for some of those under some kind of  
10      exempted fishery or something?

11                  DAVID O'BRIEN: There is, but that's  
12      a different situation. They have hatcheries out  
13      there that are putting out fish specifically for  
14      fishing. There's no fishing on the wild stock, so  
15      it's a little bit different situation.

16                  UNIDENTIFIED: And relating to what  
17      Rom had brought up on incidental take, at that point  
18      it becomes pretty automatic as far as mathematical,  
19      you know, formulas and equations that determine what  
20      level -- what's known about what level the stock is  
21      and what the U.S. can safely take from the stock  
22      such as with the white longline and leatherbacks,  
23      it's something like one turtle, because the stock is  
24      in such rough shape. And with the Atlantic

1 loggerhead, it's something like 4 or 500 turtles  
2 because the stock isn't in that bad of shape. But  
3 at that point it would all be relative to the health  
4 of the stock and the total takes -- inevitable takes  
5 from the U.S.

6 DAVID O'BRIEN: Right, that's  
7 correct, and it does depend. That's why it's hard  
8 to say at this point what incidental take could be.  
9 But it would vary.

10 UNIDENTIFIED: It could be one.

11 DAVID O'BRIEN: It could be. It  
12 could be 400. Yes?

13 JAMES DONOFRIO: Thank you. Jim  
14 Donofrio, Recreational Fishing Alliance. And I want  
15 to go on the record with this because there's an  
16 ugly rumor going around the Gulf of Mexico now that  
17 we supported this listing because Jim Chambers was  
18 one of our consultants at the time. We hire many  
19 different consultants. I'm going to tell you right  
20 now when he talked to us about that we told him to  
21 hit the road, Jack, and don't come back. Now, we  
22 are not for this at all.

23 Saying that, we believe exactly what  
24 Nelson and Glen and everybody else said, reiterate

1       here, that shutting down the fishery here in the  
2       United States, we tied ourselves to the docks, as I  
3       believe Wayne said, it wouldn't do one iota for  
4       rebuilding.

5               My question is to the team and to you  
6       people here in NOAA, etcetera, where does common  
7       sense play in the law? I mean I study a lot of  
8       history and John Adams and everybody like that, and  
9       you know, common sense always comes in. We know  
10      that the law says this. You talk about -- and in  
11      due respect, you talk about okay, we're going to  
12      take this to the international forum.

13             Now, there's people in this room that  
14      have been involved in international forum a lot  
15      longer than I have, I've been with it about six  
16      years now. I got to tell you, you want to vomit  
17      when you go over there. They don't want to do  
18      anything.

19             Now, are we going to shut down -- are  
20      we willing here in the United States at a time when  
21      our President is saying let's keep America strong,  
22      let's keep jobs, we're going to shut down an entire  
23      recreational and commercial fishing industry,  
24      entire, because of an Endangered Species listing on

1 something that have no control over? Where does  
2 common sense come in with the law? That's what I  
3 want to know. Thank you.

4 DAVID O'BRIEN: Well, first of all,  
5 saying that listing would lead to the total  
6 destruction of the commercial industry is not  
7 correct. I mean, we already talked about incidental  
8 take. There is probably some restrictions would be  
9 in place. It's hard to say exactly how restrictive  
10 those restrictions would be.

11 But you are correct that the  
12 recreational industry probably would not -- well,  
13 they would not be able to fish for white marlin.  
14 That's not to say they couldn't fish for other  
15 species, and if they're fishing for say example blue  
16 marlin, there may be some incidental take allowed  
17 under those circumstances.

18 As for the common sense, I mean, I  
19 didn't write the ESA. However, I think the feeling  
20 is, the understanding is, that if a species is  
21 endangered, it's endangered, and we have to do  
22 something about it in our own backyard and hope to  
23 convince others to do the same. But we need to sort  
24 of take care of things in our own backyard first.

1       That's how I would interpret it.

2                   JAMES DONOFRIO:   And just to let you  
3       know, we're at a 98 percent catch and release  
4       fishery.  Can we do any more?  I mean, I don't think  
5       so.

6                   DAVID O'BRIEN:   Yes?

7                   UNIDENTIFIED:   I just want to know  
8       where the process with the incidental catch be  
9       authorized, would it be before you made the final  
10      listing or would there be a delay before you made  
11      that authorization?

12                  DAVID O'BRIEN:   What would happen is  
13      if it was listed as endangered or threatened there  
14      would be what's called an ESA consultation process,  
15      and at that time it would evaluate the biology of  
16      the species, the status, and then at that point make  
17      the determination whether or not a certain amount of  
18      allowable take could occur.  So, it's after the  
19      listing process has occurred.  And probably with the  
20      implementation of a new FMP is typically where it  
21      would kick in.

22                  UNIDENTIFIED:   (Inaudible.)

23                  DAVID O'BRIEN:   Okay.  Or it could be  
24      done almost simultaneously, if I understand it.

1 UNIDENTIFIED: (Inaudible.)

2 DAVID O'BRIEN: Yes?

3 UNIDENTIFIED: Just a quick question.

4 You may have explained this earlier and I just  
5 missed it. Could you give me an example of catch  
6 for enhancement?

7 DAVID O'BRIEN: I'm sorry?

8 UNIDENTIFIED: I understand catch for  
9 research, but catch for enhancement?

10 DAVID O'BRIEN: Well, enhancement is  
11 tied to the research. If you had to -- say one  
12 example could be a captive breeding program. It  
13 probably wouldn't happen for white marlin, but for  
14 certain species it's applicable.

15 UNIDENTIFIED: (Inaudible.)

16 DAVID O'BRIEN: Yes?

17 ELLEN PEEL: Following up to what Jim  
18 said, I mean, while all of us who have been to ICCAT  
19 know it's added to our gray hair, and it can be  
20 revolting at times; however, I think we can't lose  
21 sight of the fact that it is -- it may offer our  
22 only option out of this. I mean, we did get a 67  
23 percent reductions in landings from the '99 level  
24 approved in 2000.

1                   Now, that was just implemented  
2                   recently or will be when Chris finishes these regs.  
3                   So, no one has benefit of the data, because it  
4                   hasn't been in place yet. We're dependent upon  
5                   other countries to comply. We know that's also with  
6                   different countries very frustrating. But I'm  
7                   assuming, you know, that you are going to be taking  
8                   into consideration all the ICCAT measures.

9                   If we go over this November and are  
10                  successful in getting additional reduction in  
11                  landings that that will be taken into consideration.  
12                  And while we can be frustrated with ICCAT, it may be  
13                  the only thing that saves us and keeps ESA listing  
14                  from taking place and keep the fisheries going.

15                  So, I think we need to continue  
16                  investing more into ICCAT. Less is only going to  
17                  tie us to the dock for certain here.

18                  DAVID O'BRIEN: There's questions  
19                  over here, but let me just add one thing. That's a  
20                  good point. We certainly will take into account any  
21                  efforts made by ICCAT or anyone else to conserve the  
22                  species. And I know it's too early -- hopefully  
23                  something will happen with this next ICCAT meeting  
24                  stock assessment in May. Probably too early to tell



1 anything.

2 But even next year, if say for  
3 example we did proposed rule this September, the  
4 final rule wouldn't be due till September 2003. So,  
5 if new information came along at that time, say new  
6 ICCAT information, we certainly would have to take  
7 that into account. So, it's at least a possibility.

8 UNIDENTIFIED: Hoping for the best,  
9 but trying to anticipate the worst, what would be  
10 the process for getting an incidental take permit?  
11 Once it is -- say it is listed, do you have to do a  
12 biological opinion on every particular gear type or  
13 every particular user group that would want to take  
14 them? And how -- just run through quickly how that  
15 would work.

16 DAVID O'BRIEN: Okay. Well, when I  
17 start talking about Section 7, I'm definitely at the  
18 edge of my sphere of knowledge, so I won't try to  
19 tie myself into trouble here, but -- I'm sorry?

20 UNIDENTIFIED: (Inaudible.)

21 DAVID O'BRIEN: Right. But if say  
22 for a commercial fishery, there would be a  
23 consultation on the fishery itself.

24 UNIDENTIFIED: (Inaudible.)

1                   DAVID O'BRIEN: Right. I'm not sure  
2 exactly at this point -- no one could tell you at  
3 this point how exactly to best proceed with that  
4 consultation, maybe by gear type. That may be the  
5 best way to do it. It seems to make sense. But  
6 there'd be a consultation based on some grouping,  
7 the fishery as a whole or longlines or something.  
8 And --

9                   UNIDENTIFIED: To get a little bit  
10 more focused, the guys who are going out fishing for  
11 HMS species, recreational guys like Rom was saying,  
12 if he's fishing for one thing he may end up with a  
13 white marlin, just as anybody else setting hook  
14 might. And do they -- do they have to have an  
15 incidental -- I mean a biological opinion for that  
16 particular gear type or can they just get an  
17 exempted fishery? Is there a remedy for them?

18                  DAVID O'BRIEN: I don't believe --  
19 Chris, I'm not sure about this myself. Is there a  
20 federal management to the recreational fishery?

21                  MODERATOR CHRISTOPHER ROGERS: Yes,  
22 indeed.

23                  DAVID O'BRIEN: There is. Okay.  
24 Because basically consultations only apply to

1 federal agencies. There needs to be some sort of  
2 federal connection there for a consultation to take  
3 place, so --

4 UNIDENTIFIED: (Inaudible.)

5 DAVID O'BRIEN: No, there's other  
6 things that would kick in. I just want to make sure  
7 I answer the question the right way. It's not as if  
8 -- if there's no federal agency, there's still  
9 things you need to take into account, things you  
10 need to do. But since there is a federal nexus  
11 here, then what we do is consult on the fishery  
12 itself, the fishery management plan, when NMFS  
13 issued a plan or it would do a consultation and at  
14 that point say okay, there's a certain amount of  
15 incidental take that could be allowed or not. But  
16 that's -- at that point the federal agency, we do  
17 the analysis and the biological opinion. Does that  
18 answer your question? I'm not sure if I said that  
19 very clearly or not.

20 UNIDENTIFIED: You could end up with  
21 a solution that's regulatory, as well. If you find  
22 some bycatch reduction measures, that could be  
23 imposed by an opinion, as well. The consultation  
24 will tell you what you anticipate as a take,

1        incidental take, but actually doing some more  
2        conservation measures may result in regulations that  
3        follow on.

4                    UNIDENTIFIED: All sources of  
5        mortality are going to have to have a biological  
6        opinion and consultation.

7                    UNIDENTIFIED: Absolutely.

8                    UNIDENTIFIED: We know that.

9                    DAVID O'BRIEN: Right.

10                   UNIDENTIFIED: I had a couple other  
11        questions. Can I jump in before Rebecca takes the  
12        stage? I'm not quite as optimistic, Ellen, as you  
13        may be, and even though it may be theoretically  
14        possible, I mean, these guys are facing a 12-month  
15        decision before we even get to ICCAT. ICCAT  
16        decisions we take in November wouldn't even be  
17        theoretically implemented until July. And the test  
18        that I understood we're faced with is not that they  
19        might have some effect, but are showing some effect.

20                   So, we would have to not only have  
21        all those things in place, but then we would also  
22        have to have a stock assessment that showed that as  
23        a result of the measures we took at ICCAT, they were  
24        having some effect on the status of the stock.

1       That's years from now. Years from now. Okay? So,  
2       the incentive that I feel, for example, to go to  
3       ICCAT and fight real hard, like I did two years ago  
4       for billfish, is substantially diminished, because I  
5       don't see it as doing anything for us in this  
6       process whatsoever, to be honest with you. It's  
7       years away for us to be able to measure the effect  
8       of those conservation efforts, in my opinion.

9               The second thing is it sounds like  
10       we're going to have a lot of New Jersey blue marlin  
11       tournaments soon.

12              The third, just to clarify, a take is  
13       even catch and release; right? If you interact with  
14       that fish, you look mean at it in the water, you  
15       know, it could be a take.

16              And then the last thing I want to  
17       say, and this may sting a little bit, but some of us  
18       have been around this agency for a long time and  
19       while we have great hope for the new leadership and  
20       the new vision that we have and a great deal of  
21       faith in the people that are leading the agency now,  
22       because we've known them for a long time and seen  
23       the good work that they do, like Jack and Bill  
24       Hogarth and Rebecca Lent, we also have seen rather

1       blatant situations where in most issues there's  
2       equities on both sides of the decision, you know,  
3       nothing is black and white, you've got to kind of  
4       weigh both sides and make a decision. What we're  
5       seeing happen so often at the agency is that the  
6       decision is made not on those equities, but on a  
7       balance of consideration of who would you rather get  
8       sued by. And so I guess what I'm afraid of is that  
9       we'll have a decision made that well, do we want to  
10      get sued by the environmental community for not  
11      listing white marlin or do we want to get sued by --  
12      you know, the U.S. recreational and commercial --  
13      maybe we'll actually be on the same side of the  
14      lawsuit, you know? Who would you rather be sued by?  
15      And we all know where the deep pockets are. They're  
16      up in Philadelphia. Not here.

17                So, I guess it's almost a rhetorical  
18      question, but it's just sort of a statement that  
19      we're aware of that and we sure hope that those  
20      decisions on listing are not based on litigation  
21      strategy. Where are you, Miriam? And are based on  
22      the facts. Thank you.

23                DAVID O'BRIEN: Okay. Well, I know  
24      Rebecca needs to get up here, so I'm going to cut it

1 off at that. I just want to make one last comment,  
2 just at the very end of the packet I gave you,  
3 there's also information on some upcoming tentative  
4 dates -- not dates, but tentative locations for some  
5 scoping meetings, and also there's the status review  
6 team is listed there, and finally there's my phone  
7 number -- not my phone number, my e-mail address,  
8 and the e-mail address of our contact person in the  
9 Southeast.

10 So, if you do have any further  
11 questions or if you want to transfer some data to be  
12 put into the status review team information, then  
13 you can contact either one of us and we'll make sure  
14 to get it to the right people. So, thank you.

15 Okay. One last question.

16 UNIDENTIFIED: I just have a question  
17 on the scoping meetings. You're actually going to  
18 be taking public opinion at these scoping meetings,  
19 whether this should be listed or not? Is that --

20 DAVID O'BRIEN: No, that's not the  
21 point. This is news to me, too, actually, quite  
22 frankly. I think the main purpose of them is just  
23 to notify the public and people can give opinions if  
24 they want. But it's mostly to let them know what's

1       happening and to get any information they may have  
2       that's relevant to the decision making process. But  
3       it's not to really seek people's opinion, because  
4       I'm sure we all know what the answer would be to  
5       that anyway.

6                   UNIDENTIFIED: Okay, yeah, thank you.

7                   UNIDENTIFIED: (Inaudible.)

8                   UNIDENTIFIED: I have to tell you, I  
9       have a question to that one there. I mean, anything  
10      outside what the agency has is going to be anecdotal  
11      anyway. I'm going to tell you something right now.  
12      We just did a thing -- I don't know if you're  
13      familiar with this. We have a legislative -- I  
14      guess a body that was created in New Jersey called  
15      the Fisheries Information Development Center. It's  
16      a joint effort by the commercial industry and the  
17      recreational industry to work together and work on  
18      some common solutions. It was governor's  
19      appointees, things like that.

20                   But we did these side by side trawl  
21      surveys, hired our own boats to check biomass,  
22      etcetera. Our statistics were entirely different  
23      than the Fisheries Service. And Mike Sissenwine  
24      pooh-pooh'd our data, and it was done by Ph.D.'s,



1 not Jim Donofrio or not Nelson Beideman, okay, not  
2 some fishing hacks that are now turned political,  
3 okay? Now, this was done by Ph.D.'s but poo-poo'h'd.

4 So, you mean to tell me that  
5 somebody's going to come to one of these scoping  
6 meetings and say I've got data and the agency's  
7 going to say let me embrace you?

8 MODERATOR CHRISTOPHER ROGERS: Thank  
9 you very much, David and David and Phil. And now we  
10 have Rebecca Lent to join us. After a brief hiatus  
11 on the west coast, she's back in Atlantic HMS.

12 REBECCA LENT: Thank you. Good  
13 afternoon, everybody. I see a lot of familiar  
14 faces. Some of you have changed a little bit. I  
15 know I have. I see a lot of people who taught me a  
16 lot about fishery management and I want to thank  
17 you. I feel like I'm really in a position now where  
18 it's pushing my talents and I hope you'll continue  
19 to send me advice. I promise I'll listen. We've  
20 already had a couple of HMS issues that came across  
21 my desk that are getting some national attention, so  
22 thank you, and it's really nice to see you again.

23 Bill Hogarth sends his best. He's on  
24 his way back from two weeks in Hawaii, where you may

1 have heard they announced a big reserve that's being  
2 established under the new administration, and some  
3 measures there and measures that we've taken with  
4 the Western Pacific Council. So, Bill's on his way  
5 back here.

6 I know that some things have changed,  
7 some things have not. Some of the things that  
8 surprised me were some of the bluefin tuna North  
9 Carolina issues, that some tuna were actually being  
10 harvested there under the general category. Some  
11 issues that continue to plague us are ICCAT, getting  
12 other countries to comply; bycatch -- bluefin tuna  
13 longline bycatch issue; marlins --

14 UNIDENTIFIED: (Inaudible.)

15 REBECCA LENT: That's right. That's  
16 why I'm saying these are things where we still need  
17 to solve the issues or they're recurring -- spotter  
18 planes still out there dealing with marlin. You  
19 were just talking about white marlin and turtles.

20 We've got a good team to address  
21 these issues, with Chris Rogers and the HMS team.  
22 We're hoping that the hiring freeze will be lifted  
23 so that Chris can backfill -- six vacancies you have  
24 in your division? We've got Jack Dunnigan with us

1        now. Jack used to run this group, so you're all  
2        used to working with Jack and I'm confident that  
3        this crew's going to work well.

4                I just wanted to share a couple  
5        things with you that Bill is planning -- that Bill  
6        is doing. Bill wants to turn things around. Bill,  
7        as you know, first and foremost, is a person who  
8        likes to interact, he wants to hear people, he wants  
9        to work with groups, he wants to sit down and work  
10       it out. He's not a super-formal guy. He's a sit on  
11       the back porch with an RC cola and a moon pie, talk  
12       it out, kind of guy. And I hope you'll continue to  
13       work with Bill in that fashion.

14               The big project that we have going on  
15       the regulatory side of the house, particularly for  
16       Sustainable Fisheries issues, is RSP, what we call  
17       regulatory streamlining. This is probably more  
18       apropos for Council actions, but it has to do with  
19       doing a better job at frontloading issues under the  
20       NEPA process, ESA issues, EFH issues.

21               I really think, and Miriam is still  
22       here, sometimes when we were talking about this RSP  
23       project I really think that in HMS we're there. And  
24       in fact, Miriam has pulled up the HMS as an example

1 of where we're trying to do the best possible job  
2 when we're coming forward with Magnuson-Stevens  
3 actions of frontloading ESA issues and EFH issues,  
4 marine mammal issues, so that they're in the  
5 documents, in the draft documents, and they're  
6 debated and the public gets to see all that. I want  
7 to make sure that the Councils are doing that, as  
8 well.

9 RSP involves a lot of delegation to  
10 the regions, as well. Not necessarily something  
11 that's pertinent to this group. It's managed by the  
12 Secretary of Commerce, but to the extent that our  
13 regions need to be involved, we'll pay attention to  
14 that. But the long run goal is to make sure that  
15 when we take a decision, whether it's in a Council  
16 setting, whether we're debating it here around the  
17 table, that we have the best possible information in  
18 front of us, the best possible range of  
19 alternatives, and a good analysis of the impacts of  
20 various alternatives before we make a decision. So,  
21 that's RSP.

22 We're also undertaken and we've  
23 already started a five-year review of how we're  
24 doing on Magnuson-Stevens SFA. It's been a little

1 over five years since SFA was passed, and how are we  
2 doing on the National Standards, particularly  
3 overfishing definitions, rebuilding plans, bycatch,  
4 communities, some of these areas that are really  
5 critical. Some of the areas where we've been sued  
6 and we lost because we didn't do a good job. So, we  
7 want to make sure we're doing the best possible job  
8 on those.

9 Magnuson-Stevens reauthorization,  
10 we're looking at some of the bigger issues there.  
11 We have some minor technical issues that we put out  
12 that we sent downtown, and now we're looking at  
13 issues like IFQ's, ecosystem management, excess  
14 capacity reduction, trying to streamline the  
15 measures in Magnuson-Stevens for buybacks, so that  
16 it's easier to implement those measures. And  
17 working on some issues relative to the role of the  
18 Councils, composition and role of the councils.

19 I finally want to mention that we, as  
20 you know, have received a petition from Oceania on  
21 bycatch, a petition for rulemaking. Is everybody  
22 familiar with that? If you're not, we'll give you  
23 the Web site address and you can go there and get  
24 the petition. We are putting that petition out for

1 public review.

2 And as part of our Magnuson-Stevens  
3 five-year review, how are we doing five years later,  
4 we'll be looking at bycatch. And I'm pleased to see  
5 that in this group, with the HMS and the billfish  
6 FMP's and FMP amendments, we've been able to  
7 continue to address bycatch.

8 We're not done yet. We'll probably  
9 never be done. New bycatch issues will arise as the  
10 fisheries merge and change and modify in the  
11 ecosystem. But we have made progress here and we're  
12 working under what we set up under the FMP to  
13 address that. So, that's a big issue and Bill is  
14 keen on addressing it.

15 Those are some of the big efforts  
16 that we're undertaking right now in addition to our  
17 day jobs, so that's that quick overview. I want to  
18 thank all of you for agreeing to serve. This is a  
19 new group, two new groups. Thank you for agreeing  
20 to serve on the HMS and Billfish Advisory Panels and  
21 I hope you have a productive time. And as we've  
22 said many times, this is an opportunity for us to  
23 hear you debate the issues and we learn from the  
24 debate.

1                   So, let's take a few minutes. If  
2                   anybody has any particular concerns, anything -- any  
3                   messages I need to take back to Bill Hogarth, I'll  
4                   be happy to do that. Thanks. Glen.

5                   UNIDENTIFIED: Don't list white  
6                   marlin.

7                   REBECCA LENT: Let me get that.  
8                   \*Virdin.

9                   VIRDIN BROWN: Just for information,  
10                  since I'm a council member, I think there are some  
11                  others here, could you tell us what is your review  
12                  process on composition of the councils? What does  
13                  that mean?

14                  REBECCA LENT: Well, right now we're  
15                  just looking at some options for addressing issues  
16                  that have arisen relative to the composition of the  
17                  councils. As you know, we've discussed a number of  
18                  these issues with the councils in developing 25  
19                  measures that we put forward, and I believe that  
20                  issue was addressed.

21                  Any addition initiatives that are  
22                  developed, I'm sure I'll be able to discuss at the  
23                  May Council meeting with the Council Chairs and  
24                  Executive Directors. Peter.

1                   PETER WEISS:  Rebecca, I've sat at  
2                   this committee for -- I don't know, as long as we've  
3                   been existence I guess, which seems like a long  
4                   time.  You know, and over the years we've never  
5                   really settled on what we're supposed to be doing.  
6                   I mean, you know, do we vote?  Don't we vote?  Do we  
7                   have consensus?  Don't we have consensus?  Does  
8                   anybody listen to us?  Sometimes you do, sometimes  
9                   you don't.  I think you listen to us when you feel  
10                  like listening to us and you don't when you don't.

11                  Has there been anything more specific  
12                  or do we have any mandate that's more specific than  
13                  what we had over the last few years, where, you  
14                  know, we talked about somebody running the meeting  
15                  who was part of the group, like a chairman that we  
16                  elected, which never came to pass.

17                  I guess Chris is going to do the  
18                  running this year.  Has there been anything more  
19                  specific --

20                  UNIDENTIFIED:  (Inaudible) hold an  
21                  election right now.

22                  PETER WEISS:  But you know what I'm  
23                  talking about.  I mean --

24                  UNIDENTIFIED:  I nominate Peter.



1                   PETER WEISS: I think we all felt  
2                   very at times frustrated. You know, we had  
3                   consensus -- I think we only had consensus on two  
4                   issues in two years or three years. Do we need  
5                   consensus? Can we have a vote? I mean, can you  
6                   expand on that at all, if possible?

7                   REBECCA LENT: Well, Peter, I'll talk  
8                   about it a little bit. I don't think I'm really  
9                   well-prepared to answer the question, and I think  
10                  Jack and Chris should probably address it, but the  
11                  group is an advisory group. You have SOPP's, right?  
12                  You have operating -- and those -- do they address  
13                  voting at this time? Do they have voting in them?

14                 UNIDENTIFIED: There's a potential to  
15                 vote.

16                 REBECCA LENT: There's a potential to  
17                 vote. Again, I hate to use that tired old phrase,  
18                 but I think just in the exchange, in the debate, in  
19                 people's views, we get an idea of where people are  
20                 on this issue. Coming to a consensus on some things  
21                 may be a really strong signal to send to Jack and to  
22                 Bill Hogarth and us in terms of what you're  
23                 thinking. If you can't come to a consensus, at  
24                 least we know what the issues are on the various

1 sides of the argument.

2 Now, whether you want to spend more  
3 time on trying to get the SOPP's modified or trying  
4 to think about how you're going to vote and who's  
5 going to run the meeting, you might just want to  
6 think about if that's the best way to use your time,  
7 if that's going to add to what we learn from this  
8 process. And I'm sure others have views on that.

9 Chris or Jack, do you want to add  
10 anything?

11 MODERATOR CHRISTOPHER ROGERS: Well,  
12 we did address this at the end of last year's  
13 meeting. I know there are some folks who had to  
14 make flights. But I guess we went on for nearly an  
15 hour there at the end of the meeting, for those who  
16 didn't need to head off to the airports, on exactly  
17 this topic.

18 The statement in Magnuson is quite  
19 clear, that the panel shall be formed by the  
20 Secretary to advise the agency on matters pertaining  
21 to information needs and issue identification for  
22 the conservation management of Atlantic Highly  
23 Migratory Species to the extent they're managed  
24 under Magnuson as a Secretarial FMP.

1                   So, in a sense, it is advisory in  
2                   nature in that even if we did take a vote, it is not  
3                   necessarily binding on the Secretary. So, in some  
4                   senses it's most useful, as Rebecca said, to at  
5                   least have people of many different viewpoints  
6                   expressing those viewpoints in an informed  
7                   discussion that the agency can listen to.

8                   But with respect to running the  
9                   meeting, Bruce and I had gone back and forth about  
10                  this prior to last year's meeting, and we decided to  
11                  run it the way we did last year, but to open it up  
12                  for that discussion. And I kind of got the  
13                  impression, correct me if I'm wrong, that for the  
14                  most part folks were not prepared to have any  
15                  subgroups, so to speak. There was a concern that  
16                  not everybody's viewpoint or constituency could be  
17                  represented if we had subgroups the way the ICCAT  
18                  Committee works out into the species working groups.  
19                  And that it wasn't -- it was mixed feelings on the  
20                  election of a chair, so to speak.

21                  Certainly we're open to that. The  
22                  SOPP's would allow for it. If it's the pleasure of  
23                  the panel, so to speak, to elect a chair and to be  
24                  more involved in setting the agenda, certainly the

1 agency is open to that.

2 The other aspect of it that we  
3 discussed was whether or not there would be some  
4 means of facilitating communication with the agency  
5 in between meetings, sort of the way the ICCAT  
6 Committee has a subgroup -- I don't know whether you  
7 call it an Executive Committee or Executive Board or  
8 something like that, but some subset of the panel  
9 that could facilitate communication with the agency  
10 in terms of setting the agenda, planning when to  
11 have the meetings, those kinds of things.

12 So, we're certainly open to that. We  
13 may have a little bit of time, if we're finished  
14 discussing billfish issues this evening, we can get  
15 more into that, if there's anything pressing that  
16 folks would like to try for this meeting.  
17 Otherwise, again, I don't know that there was any  
18 clear marching order to the agency at the end of the  
19 discussion last year that things should  
20 fundamentally be changed.

21 REBECCA LENT: Any other views on  
22 that matter? Folks want to weigh in? Jim.

23 JAMES DONOFRIO: Rebecca, yeah, I  
24 believe the first year we met we broke into those

1 species working groups. I can recall we did, right?  
2 Didn't we do that? I remember that. Because I sat  
3 on that bluefin group with maybe Rich and some  
4 others and Ray Bogan on the recreational sector.  
5 That worked out pretty well. I mean, are we going  
6 to at least talk about that, that we can do that?  
7 It seems to work at ICCAT with us.

8 DAVID WILMOT: I hate to reopen this  
9 again; however, there are certain sectors that  
10 simply do not have very broad representation on the  
11 committee. We are here, as you point out, Chris, to  
12 give advice to the agency, and I do not want the few  
13 people who we have representing conservation,  
14 environmental interests, to be divided such that we  
15 do not have the opportunity to discuss each and  
16 every issue before us.

17 I don't see why in a three-day  
18 meeting we can't together sit around and have the  
19 opportunity to comment on them. So, again, I would  
20 request that we do not split up, we do not break up.  
21 We have appropriate time to discuss each important  
22 agenda item.

23 Now, regarding chairmanship, what is  
24 important to me is that we all have the opportunity

1 to discuss the issues that are not just important to  
2 us sitting around the table, but important to the  
3 agency that they're going to be taking action on.

4 The agency is in the best position to  
5 chair the meeting so that they can move it in the  
6 direction that they feel they need advice. It  
7 sounds great for us to say we want to control our  
8 meeting. Guess what, folks? They need to control  
9 it and tell us to shut up when they don't need to  
10 hear what we're saying. A four-hour discussion  
11 about who wants a listing for white marlin on  
12 Endangered Species is not what the agency needs.

13 So, I would once again, for the fifth  
14 time, reiterate I would like to see the agency keep  
15 control of this meeting and run it as well as they  
16 can to get the advice that they need and provide  
17 adequate opportunity for each of us around the table  
18 to have our voice heard, as if all of us don't use  
19 every other opportunity to talk to the very people  
20 sitting in this room. I mean, guys, give me a  
21 break. How often do we call all of these people?

22 So, please don't split it up and  
23 don't hand the chairmanship over to anyone sitting  
24 around this table.

1                   NELSON BEIDEMAN: Something that was  
2 brought up earlier. There's been a few occasions  
3 where the group actually comes to unanimity. A  
4 billfish tag system. I was on the billfish  
5 committee for the first two years. Each of two  
6 years that committee was unanimous in having a  
7 billfish tag. Well, maybe you weren't in the room.  
8 Well, maybe Ellen remembered different than me.

9                   At any rate, it ends up that what we  
10 have is a proposal for a self-reporting call-in.  
11 The group recommended strong measure, end the  
12 controversy, let's put solid numbers on the table.  
13 The Service comes back with well, let's have a  
14 voluntary call-in in response to ESA petitions and  
15 everything else. I mean, there's a disconnect here  
16 somewhere.

17                   But one thing in specific. Since the  
18 agency itself is amending the SOPP's, the last line  
19 says that not only do we have to come and have so  
20 much fun, but we'll no longer get our travel  
21 expenses paid for coming and having so much fun. I  
22 wish you'd take that last line out.

23                   MODERATOR CHRISTOPHER ROGERS: Well,  
24 it's always been our intent to fund the travel costs

1 of the panel, provided we had the resources to do  
2 so. And I guess without that clause, we might be in  
3 the position if we had no funds we couldn't call a  
4 meeting. At least if we had it and the meeting was  
5 deemed important by the majority of panel members,  
6 we could at least call a meeting, even if we  
7 couldn't cover the travel cost.

8 It's not earmarked funds to cover the  
9 travel costs of the committee, but to date we've  
10 never had a meeting, to my recollection, that we  
11 didn't. And we'll always strive to do so.

12 How about Glen, Rich and then Jim.

13 GLEN DELANEY: I agree with what  
14 Nelson said about the call-in. That is an  
15 embarrassment. I agree with David in some thoughts  
16 that we spend an awful lot of time jockeying our  
17 politics to try to elect a chairman that somehow  
18 people would perceive would somehow favor their view  
19 in some incremental way. I mean that's -- I agree  
20 with Rebecca, that's a waste of time to spend on  
21 that. As would be a waste of time getting to the  
22 point where we're having to vote, because then the  
23 composition of this body makes a big difference.  
24 And you know, I think if you look at that, that



1       would be a questionable situation already, but at  
2       least without voting everyone has the opportunity to  
3       be heard, and those of us who like to talk more and  
4       talk louder can feel like they're having a balanced  
5       input.

6                       So, you know, Peter, my response to  
7       votes is then we have to spend our whole time,  
8       months and months, worrying about who is going to  
9       get appointed. I mean, if you're familiar with the  
10      regional council appointment process, you just don't  
11      want to go there.

12                     So, I think, you know, an open  
13      exchange, no one feels like they're indebted to  
14      anybody, everybody has their freedom to speak as  
15      they -- you know, based on their expertise and  
16      experience. I wouldn't change a thing, to be honest  
17      with you, other than -- well, I'll just leave it at  
18      that.

19                     But Chris, I think you're doing a  
20      great job as chairman and I don't see any reason why  
21      you couldn't continue to do that.

22                     MODERATOR CHRISTOPHER ROGERS: Rich.

23                     RICHARD RUAIS: Yes, thank you. I  
24      don't want to comment on at all on this -- the

1 running of the committee. What I wanted to say was  
2 Rebecca, I know you have great familiarity with our  
3 issues and that's good. You've spent a lot of years  
4 at ICCAT.

5 And I know you're aware that the key  
6 problem we face right now is the European community,  
7 and I know you're also aware and you're supporting  
8 the effort of the commissioners to try to develop  
9 the leverage that we need to get the European  
10 community to adopt a more conservative stance, both  
11 in the policies and in the compliance.

12 And I just want to urge you to help  
13 keep the leadership focused on the importance of  
14 getting that leverage so we can get the job done. I  
15 mean, without it we're just going to continue to  
16 spin our wheels, and we clearly need some help.

17 REBECCA LENT: Thank you, Rich. Does  
18 everybody know that the ICCAT government  
19 chairmanship has shifted from Rollie to Bill  
20 Hogarth? We got our men in Spain.

21 UNIDENTIFIED: Thank you, Mr.  
22 Chairman. Regarding -- if you want -- looking for a  
23 comment as far as chair, I think, Chris, you do an  
24 outstanding job. In fact, as you know over the

1       years, working with our community on the outside,  
2       we've always had a lot of respect for you and your  
3       accessibility, etcetera. So, we're real pleased  
4       with that.

5               But back what Nelson said before, I  
6       agree with Nelson 100 percent. We all worked very  
7       hard in the initial HMS/Billfish -- you know,  
8       attending all the meetings, putting a lot of stuff  
9       together, to come up with a draft FMP. And I can  
10      tell you that many of us, Rebecca, on both sides of  
11      the aisle, were shocked when we looked at the  
12      document and said, you know, this is -- a lot of  
13      this we never even discussed this. It came up as a  
14      surprise to us.

15             So, we were saying, you know, what is  
16      this exercise that we're doing, putting all this  
17      time in, flying around, and taking time out of our  
18      offices. Many of us are very busy with other  
19      things; right? And there's fishermen here that have  
20      to be out on the water, etcetera.

21             So, you know, we do all this work and  
22      then we get something that says preferred option and  
23      it's nothing like we looked at. And going back to  
24      what Nelson said, I had talked to Rollie about -- I

1       remember when I was a young guy, I had my first  
2       little boat, and this is when bluefin became the big  
3       endangered thing and NMFS gave us these little metal  
4       tags, because you'd only catch maybe a couple a year  
5       for schoolfish. Little metal tags came in a  
6       booklet. And if you wanted to catch more bluefin,  
7       you had to send in the metal tag.

8               Now, we don't kill a lot of bluefish  
9       -- billfish, excuse me, billfish, as you know. Why  
10      can't we do the metal tag thing? We're not acting  
11      -- this is not yellowfin tuna where there's going to  
12      be thousands and thousands of fish on the dock here.  
13      We're talking about a few hundred fish a year, get  
14      the metal tags again, get the real time reporting.  
15      If you land a billfish in the United States of  
16      America, if you don't have that tag on it, guess  
17      what, you're out of compliance. It's real simple.

18             I mean, I think everybody would go  
19      along with that. We're only killing a few fish.  
20      So, these are the suggestions we keep making and we  
21      keep hearing -- we hear a lot of yes from the  
22      agency, great idea, great idea. And this goes back,  
23      Rebecca, if you remember, to the '96 meeting in New  
24      Orleans that the RFA and ASA and other people

1 sponsored to try to get better data from our sector,  
2 and all we keep hearing is yes from the agency, but  
3 we don't see any movement.

4 Now, if it's an appropriation  
5 process, there's many of us here that are registered  
6 lobbyists and we work on the Hill. Let us know.  
7 You know? We'll go to work. But we don't hear  
8 anything back except it sounds good, and then we  
9 keep -- every year we do these panels and nothing  
10 moves forward. And we want the data as bad as the  
11 other side wants it. Thank you.

12 JAMES DONOFRIO: I don't have  
13 anything to add now. We are going to get back, at  
14 some point, to talking about the billfish rule?  
15 Call me then.

16 UNIDENTIFIED: I'm the tag dissenter,  
17 Nelson, and I was at the meetings. And I voted  
18 against it. Because NMFS said they were going to  
19 distribute 250 tags to keep the landings to 250  
20 fish. And that's just physically impossible to get  
21 250 tags to the right 250 people who are going to  
22 land the 250 billfish. That's just not the real  
23 world. So that's why I'm absolutely against a tag  
24 system when the thinking in the agency runs along

1       those lines.

2                   And there is a benefit to a tag  
3       system now, but not if the agency has any  
4       inclination of thinking of limiting the number of  
5       tags in order to limit the number of landings. It's  
6       as simple as that.

7                   JILL STEVENSON: Thanks for coming,  
8       Rebecca. I just wanted to -- I understand this is a  
9       little late in the game, but I would really like to  
10      see, given the shortage of staff in the HMS  
11      Division, which I know well, which I contributed to,  
12      that I think that we really need to prioritize items  
13      in HMS and that that is possibly one of the tasks  
14      that this group can be put to work to do.

15                   It's very clear that the HMS Division  
16      can't do half of what we all want them to do. They  
17      can't tackle marlin issues and bluefin issues and  
18      all of the other fish that each of us has our own  
19      little pet fish to deal with, and so I would like to  
20      suggest if not in this meeting, since the agenda  
21      seems -- you know, is pretty well set, that either  
22      we hold another meeting later on in the year, which  
23      I understand there's some cost issues, or maybe just  
24      think ahead to the next AP meeting and say -- you

1 know, have NMFS ask this group to help prioritize  
2 issues. Because I think that when you have a lot of  
3 issues that are in transit, rulemakings and bycatch  
4 issues and some other evaluation of FMP issues, that  
5 you can't get to all of them and so nothing gets  
6 finished.

7 And it would just be I think really  
8 gratifying if maybe this group could help contribute  
9 to that prioritization or at least provide advice  
10 that -- and then also get feedback from the agency  
11 on what those priorities are and so we know what to  
12 expect. We know that in the next three months  
13 you're going to see a final ICCAT rule, you know, in  
14 the next six months this is the next thing down the  
15 line, instead of all of us just hammering you guys  
16 all the time. Thanks.

17 REBECCA LENT: Are there more general  
18 issues before I bow out? Bob.

19 ROBERT PRIDE: Just to kind of  
20 summarize the meat of what many folks have said here  
21 today, Rebecca, we would like for the agency to come  
22 to the panel and say here are the items we'd like  
23 advice on. A lot of these meetings, a lot of the  
24 time is spent on you reporting to us, which is good,

1 but we'd also like you to have at the conclusion of  
2 that report well, now that we've given the report  
3 here's what we need advice on. Thank you.

4 UNIDENTIFIED: Just to follow up on  
5 that comment, which is very good, we're the Highly  
6 Migratory Advisory Panel. We spent an hour or two  
7 on white marlin being listed. What advice did you  
8 get from us? I don't know. Was that the advice? I  
9 mean, there was a lot of conversation back and  
10 forth. I mean -- but I think that comes down to the  
11 -- you know, we want to advise you guys, but you  
12 know, it's got to get whether you want to take a  
13 vote or you don't want to take a vote, I don't  
14 really care, because we did take votes, you know?  
15 The last two years I think we have taken votes. But  
16 it would be nice to get an idea what people are  
17 thinking, you know, not just making comments of --  
18 that don't sometimes address the issue.

19 MODERATOR CHRISTOPHER ROGERS: Well,  
20 again, our Statement of Operating Practices and  
21 Procedures does envision that votes are possible.  
22 And anytime that somebody wants to take a vote on a  
23 particular issue, you know, we can set that up on  
24 the agenda. It would be good, if you can't do that



1 before the meeting, to at least in the initial  
2 discussion of setting the agenda, that here's a  
3 priority issue and I think it needs to go to a vote.

4 To the extent that it's not necessary  
5 to go to a vote, and to have more time for a debate,  
6 you know, that's basically the way we've been  
7 working since the initial days of establishing  
8 what's important for the FMP development.

9 With respect to the ESA discussion,  
10 our concern was that people be informed as to the  
11 full extent of the process, what the law requires,  
12 where the opportunities for public input are.  
13 Again, you are the key people that work with your  
14 constituencies, and we were hopeful that being well-  
15 informed as to the process and the points of public  
16 input from hereon out, and the time frame, that you  
17 would be able to go back and communicate that to  
18 your respective constituencies, and get people out  
19 to those scoping meetings or get people to write or  
20 provide the information that the agency needs for  
21 that process.

22 How about Russ and then Jim, then  
23 Willy.

24 RUSSEL DUNN: I guess I do have one

1 comment for this process discussion, Chris, and that  
2 is that under the Statement of Organizational  
3 Practices and Procedures it does say that the  
4 purpose of the AP is to advise and assist the  
5 Secretary et al in collection of information  
6 relevant to any modification or amendment to the  
7 FMP.

8 To that, I suggest probably -- and  
9 maybe others agree here, and perhaps some of you do  
10 in hindsight, that it probably would have been a  
11 good idea to sit on this Advisory Panel and solicit  
12 our advice prior to proposing certain regulations  
13 for the swordfish fishery. Hopefully in the future,  
14 maybe before some of those regulations are proposed,  
15 and we end up going to public hearings on them, you  
16 could ask for us to get together and maybe we could  
17 do a little of the groundwork that would help ease  
18 the way and simplify some of those decisions.

19 MODERATOR CHRISTOPHER ROGERS: I do  
20 agree with that, and again, we did have a bit of a  
21 discussion last year as to how to effectively  
22 communicate with the panel at large in between  
23 meetings, since clearly travel cost is an issue in  
24 terms of convening meetings. If there was some

1       efficient way of communicating, via e-mail or fax or  
2       -- the problem is if we can't communicate with you  
3       all, and are forming opinions based on advice of  
4       certain constituencies and not the full experience  
5       of the discussion as we can have it at a meeting  
6       here, there is some concern about the agency taking  
7       selective advice, so to speak.

8               So, again, if folks have any ideas on  
9       how to effectively communicate prior to a meeting  
10      about setting the agenda or, as Jill said, about  
11      setting priorities, let's see if we can establish  
12      some formal means of communication between meetings.

13             UNIDENTIFIED: Selective advice works  
14      for the White House.

15             RUSSEL DUNN: I'd just perhaps  
16      suggest then that you try to fit your rulemaking  
17      schedule into the schedule of this group's meeting,  
18      unless your rules were so important that you had to  
19      issue an emergency rule or something, which would be  
20      understandable. But otherwise, it probably would  
21      not have been difficult just to wait until this  
22      group had convened before you -- and you received  
23      some of the information and advice that we might be  
24      able to give before you offered some of those rule

1 amendments.

2 MODERATOR CHRISTOPHER ROGERS: I  
3 noted that General Counsel had their hand raised. I  
4 must have overstepped my bounds somehow.

5 UNIDENTIFIED: (Inaudible.)

6 MODERATOR CHRISTOPHER ROGERS: I know  
7 Wayne had been -- Jim, Willy, Wayne, Rom and Mau.

8 WAYNE LEE: Thank you, Mr. Chairman.  
9 The comment I wanted to make was number one, I think  
10 the way you ran -- I'm new to this process. I was  
11 here last year and I thought the way the meeting ran  
12 and the way we handled the issues was the  
13 appropriate way to do it. And I think you did an  
14 outstanding job.

15 If we got to the point where we tried  
16 to vote on issues, we don't have enough time left in  
17 the year to go through and vote on all these issues,  
18 because we'd be talking forever before we got to  
19 that point.

20 Just two key points, though. And  
21 this goes back to what Nelson said about consensus.  
22 One of the issues last year that we discussed, and I  
23 thought we reached consensus here, maybe it wasn't  
24 100 percent, but pretty close, was on incidental

1 catch and changing that rule. And I left here under  
2 the understanding that we had -- that we had reached  
3 consensus on that, that you all were going to be  
4 doing rulemaking, and that's a very important issue  
5 for our longline boats operating in North Carolina  
6 with that incidental catch on bluefin.

7 I called back up here in September  
8 and was told yeah, rulemaking is getting ready to  
9 take place, and here it is April. So, I'm not  
10 fussing at you, because I know that you have a heavy  
11 workload, but it is a very important issue to our  
12 commercial fishermen in our state, and I thought we  
13 reached consensus we were going to walk away from  
14 here and we were going to get that done.

15 The other point I'd like to make, and  
16 this is to you, Rebecca, and that has to do when I  
17 look at this SAFE report and I review this table  
18 that we commented on a while ago, 4.2, and you look  
19 at the impact of the fisheries throughout the  
20 Atlantic, and how little we impact those fisheries,  
21 I don't know how -- what we can do and from the  
22 international arena, but we need to get someone  
23 looking at that issue. We need to get help in that  
24 area. I mean, I just -- I can't fathom us as a

1 country allowing that to take place.

2 But anyway, I would just encourage  
3 you that if you have an opportunity to deal with our  
4 trade people, or whoever works these kind of issues,  
5 that this issue be kind of kicked up in the hopper  
6 because it affects our recreational community, it  
7 affects our commercial community, and affects us all  
8 here at the table. Thank you.

9 REBECCA LENT: Thanks for bringing  
10 that up. In fact, I'll be going with the new head  
11 of NOAA, Admiral Lautenbacher, to the APEC meetings.  
12 The number one issue there is fisheries. My number  
13 one goal for that meeting is sensitizing the Admiral  
14 to as much as we have progress to make in our  
15 country how well we're doing relative to other  
16 countries, and how we share this management burden  
17 with other countries and we can't do it alone.  
18 Turtles, sharks, migratory species. We have to work  
19 with other countries. So, I appreciate your  
20 bringing it up, and I'm going to make sure it's  
21 front and center with the admiral.

22 UNIDENTIFIED: Can I follow up on  
23 that a little bit? Thanks, Nelson. You're right  
24 on. And first of all you need some better ICCAT

1       Commissioners is what I would recommend. But you  
2       know, we've got this institution of domestic fishery  
3       managers who need to do something, and you know,  
4       when I hear well, we don't have regulations as fast  
5       as we want, well there are some regulations,  
6       rulemakings we want, and others we don't.

7               But I guess the point I'm trying to  
8       make is we have so much to do internationally that  
9       that's so much of what we should be focusing on  
10      instead of just -- you know we have just gotten to  
11      the point of where we are micromanaging our domestic  
12      ministry; and every year we come up with new ideas,  
13      wow, we'll cut these guys out, we'll do this, we'll  
14      do that, to the point where we're just disappearing  
15      from the face of the earth because we've got this  
16      whole group of people that have to go to work every  
17      day and find a way to regulate the U.S. fishery, you  
18      know, where 99 percent or 96 percent of the problem  
19      is outside of that. So, I don't know Rebecca but we  
20      need to be thinking how far are we going to go with  
21      this domestically, just because we can. I mean,  
22      it's not accomplishing anything.

23              We just sat here and talked about,  
24      before you came in, on white marlin. You know,

1 we're going to go through an entire process because  
2 the law says so, and we've got a bunch of people  
3 that that's what they do for a living is ESA list.  
4 And they don't even have to answer -- they can't  
5 answer the question, but they don't have to answer  
6 the question will it do anything. They don't have  
7 to answer that, because there's no accountability  
8 for well, what we put into place will effect  
9 conservation.

10 You know, at some point we have to  
11 step back and say where are our priorities. Our  
12 priority, in my opinion, is international and we  
13 should go a lot slower and a lot easier on our  
14 domestic industries, both recreational and  
15 commercial, and recognize that we are so many light  
16 years out there in front of anybody else, and maybe  
17 that they ever will be, and that the further we  
18 diminish ourselves the weaker we are in a position  
19 to pursue things at ICCAT.

20 The less American interest there is  
21 in ICCAT, the less influence we're going to have  
22 when we get over there. Because there's nothing  
23 left to fight for. You know, you think I'm going to  
24 go over and fight for billfish when they're going to



1 shut down our fishery? The heck with it. We're  
2 toast. Why bother?

3 You think these guys are going to  
4 fight for billfish conservation internationally on  
5 foreign longline vessels if they aren't going to  
6 even exist? What's the incentive? Because it's the  
7 morally right thing to do? You know, by the time  
8 you rebuild white marlin we're gone, we're long  
9 gone. So, I think we need to lighten up on the  
10 domestic and focus our energies on the  
11 international. Thank you.

12 UNIDENTIFIED: (Inaudible.)

13 UNIDENTIFIED: Thank you. Mr.  
14 Chairman, regarding the vote, I think all of us on  
15 the early days in good spirit, we even took a  
16 consensus on the vote, but as was reflected, and as  
17 I said prior, as was reflected in the draft FMP, the  
18 consensus was not shown, so to go through the voting  
19 process again is just another exercise that I don't  
20 think we need to do anymore. Thank you.

21 WILLIAM ETHERIDGE: I hope mine is to  
22 Rebecca. I got here today about 12 o'clock and I  
23 had lunch with four or five people, and three of the  
24 people at the table had flown here and -- or two had

1        flown and one had come by train, and one of them  
2        said that the National Marine Fisheries had paid  
3        \$190 for a train ticket that he could buy for \$55.  
4        One of them said that he had flown from the  
5        Caribbean and the National Marine Fisheries had paid  
6        \$900 for the ticket and he could have got the ticket  
7        for \$300. And another guy said it had cost him \$600  
8        to come from Daytona to here. But then you hear  
9        that there's not enough money to have another  
10       meeting. You hear that you're having a problem  
11       hiring people. Is the problem hiring people money  
12       or is it qualified people?

13                   UNIDENTIFIED: (Inaudible.)

14                   WILLIAM ETHERIDGE: It's the hiring  
15       freeze. But I would hope that in the future, just  
16       as a taxpayer, that -- I mean, you ought to maybe  
17       just send a questionnaire around to everybody here  
18       at this meeting that's had to pay to get here and  
19       see if they couldn't do it a little bit cheaper and  
20       be reimbursed theirselves, and what I saw happening at  
21       the table where I was sitting for lunch.

22                   REBECCA LENT: That's, Willy. It's  
23       one of these things where we're butting up against  
24       government rules, much as you do every day out there

1 on the ocean. There are carriers, contract  
2 carriers. You cannot diverge from that. It has to  
3 be United at the government fare, whereas you could  
4 go over to the Delta counter and get a weekend fare  
5 or something and save money, it would be great. But  
6 that's the way the government works.

7 I'm going to ask Chris or maybe Jack,  
8 someone on his staff could look into the  
9 possibilities of you doing your travel and getting  
10 reimbursed. It may mean that you would have a  
11 restricted ticket, and if we -- our debate goes over  
12 because we decide to vote or something, you would  
13 have to pay a penalty on your ticket, whereas with  
14 the government fare you can change it, and there are  
15 kinds of rules and things like that. But I wouldn't  
16 shut the door on looking at that issue. I sure  
17 appreciate your bringing it up, Willy, as a taxpayer  
18 myself.

19 UNIDENTIFIED: Yeah, Chris, to  
20 getting benefit out of the advisory nature of these  
21 meetings, I second -- you know, us council members,  
22 I'm another one who says voting in this arena would  
23 be counterproductive. It would take too long to  
24 decide the language of what to vote on, just for

1       openers. But on the councils, before we go to a  
2       council meeting, we have about 90 percent of what  
3       we're going to go over already mailed to us in  
4       organized form so that we know the flesh of what's  
5       going to happen at the meeting. And we get maybe  
6       another ten percent the day before we jump on the  
7       airplane and maybe another percent or something  
8       handouts at the meeting.

9               So, basically when we get to a  
10       council meeting, we pretty much know damn near  
11       everything that's going to happen there. And we  
12       don't have that at these meetings. And I know you  
13       all are pressed, and it does take a whole damn staff  
14       to generate all that stuff, but if you could flesh  
15       out the agenda items just a little bit, you'd get a  
16       lot more back from us is all I'm saying. The more  
17       you would put into it, the more you will get back  
18       from us.

19              UNIDENTIFIED: Well, I'll just  
20       reiterate what Wayne and what Glen -- when you look  
21       at our country and you look at the land mass on the  
22       Atlantic Ocean and it looks 20 to 30 percent of  
23       Atlantic Ocean and we send Glen and Bob -- anyway  
24       our representatives over there and they work hard.

1 I know they're working hard for less than in some  
2 cases of all the fisheries in this book right here,  
3 in this SAFE report, it's less than five percent in  
4 every fishery except maybe swordfish. And somehow  
5 we've got to get to be a bigger player in the  
6 international arena.

7 I mean, we'd be much better off to  
8 finance the fleet and have 40 percent of the fishery  
9 out there and all these, at least then when we make  
10 all these conservation efforts, it would be  
11 worthwhile.

12 The second thing is we have got --  
13 and we've talked about this for the last three or  
14 four years, but I feel like we've got to coordinate  
15 our data accumulation, either through the ACCSP  
16 program or some kind of program where from Texas to  
17 Maine that there's some kind of standard form or  
18 standard information gathering so that not only can  
19 you all make better decisions, but so we can use it  
20 for our protection when these -- well, yellowfin  
21 tuna is a prime example, when it comes down the line  
22 it's going to get ugly, I think, if we don't have  
23 some really good data. And we've talked about it  
24 and talked about it, and we still really haven't

1       done anything. So, that's what I'd like you to take  
2       to Bill.

3                   REBECCA LENT: Okay. I've heard a  
4       lot of good ideas here and I'll take these back to  
5       Bill. Some of the things that I've pulled out here  
6       really quickly, continued concern and discussion, I  
7       think that's appropriate every time you meet you're  
8       going to think about what's the best way for us to  
9       operate as a body and that's good.

10                   Concern about what we do with the  
11       advice at the Fisheries Service when these meetings  
12       are over and when we go home and we look over the  
13       notes.

14                   A lot of good suggestions about  
15       improving the meeting process, getting documents out  
16       ahead of time, maybe putting a prioritization issue  
17       on the agenda. I think that's important.  
18       Obviously, a lot of concern about the time it's  
19       taking to do rulemaking. And again, we'll talk to  
20       Bill Hogarth about FTE -- the FTE freeze and whether  
21       we can give a little more relief to HMS, a special  
22       place in my heart. And a lot of discussion about  
23       the international issue, as well, and that's  
24       helpful.

1 I wanted to just take a second and  
2 introduce Irv Levinson, who came in the room with  
3 me. Irv is from the Hudson Institute. The NOAA  
4 leadership has asked that we do a review of external  
5 forces that are going to affect NOAA in the next ten  
6 years, and Irv has been talking to people in the  
7 Fisheries Service. Some of the issues that you  
8 brought up today, like the international issues, are  
9 definitely -- I'd emphasize those. Also things like  
10 climate change, things that are kind of out of our  
11 control.

12 And Irv's wife is related to Mark  
13 Farber, so Irv has a fishery connection. There you  
14 go. Thank you very much for your time today and  
15 I'll just go to the back of the room and continue to  
16 listen to you as you work on billfish issues.  
17 Thanks and have a great meeting.

18 MODERATOR CHRISTOPHER ROGERS: Okay.  
19 Thank you, Rebecca, for stopping by. We still have  
20 basically an hour on the agenda this evening to  
21 continue our discussion on billfish with respect to  
22 our initial discussion on monitoring and reporting,  
23 as well as that spillover discussion on swordfish,  
24 if you wanted to get back into that with respect to

1       how swordfish was being managed at the recreational  
2       fishery and the proposals that were joint with some  
3       of the billfish stuff.

4               Can I just get a show of hands, since  
5       we did have this on the agenda for 5:30 to 6:30, to  
6       continue the AP discussion as well as public  
7       comment? Do we have any members of the public who  
8       wanted to comment about any of the billfish issues?  
9       So we can reserve some time for the public at large.  
10      As Miriam reminded us, these meetings are open to  
11      the public and we do have to provide for some public  
12      input throughout.

13             Are you a member of the public? Of  
14      course you are. All right. Okay. So, I didn't see  
15      any hands, so I guess we'll just play this out as  
16      long as the panel is willing to go, provided we  
17      adjourn at 6:30, because I know some folks are tired  
18      from traveling and I personally have to catch a  
19      train.

20             Okay. So, Mau. Who else? Russ.

21             MAUMUS CLAVERIE: Go?

22             MODERATOR CHRISTOPHER ROGERS: Yeah,  
23      you're up, Mau.

24             MAUMUS CLAVERIE: All right. I



1        wanted to go back to billfish monitoring. And I've  
2        said so and lived it for years, and someone else --  
3        who else said that the billfish monitoring is sort  
4        of a cooperative thing between the agents who are  
5        getting the information and the fishermen who are  
6        providing the information? And that's certainly  
7        true in the Gulf and that's one of the great  
8        benefits of the program that's been there for so  
9        long, is that there's -- in business you'd call it  
10       good will. There's a relationship between the  
11       supplier and the customer or whatever you want to  
12       call it, and that's what has gone on between the  
13       scientific data gathering personnel and the  
14       fishermen who have given the data.

15                    And it boils down to the port agent,  
16       I think it's called, on the dock, getting the  
17       information and they get the information because  
18       everybody knows that that's the person that you give  
19       the information to, and that's a system that's been  
20       built up over the years, and new people into the  
21       sport or whatever you want to call it, learn that  
22       very quickly and so forth.

23                    But one -- there's a lot of personnel  
24       and money and all that involved in this system is

1       probably more worthwhile than other systems, maybe  
2       not. But I was on ICCAT for -- I mean, on Sea Grant  
3       for a while, and Sea Grant's purpose was to work  
4       with the fishing industry and transfer new science  
5       and ideas for the benefit of the fishing industry.  
6       And basically, the way they worked was they would  
7       either determine a need or stumble on a solution or  
8       need that nobody realized they needed a solution to,  
9       and do some cutting edge scientific research in  
10      academia about that sort of thing, and when they  
11      would -- which was quite often, when they would come  
12      up with solutions to problems, they would then pass  
13      that on to the fishing community through their agent  
14      system, much like the -- what do they call it in the  
15      Land Grant colleges, the local agent that tells you  
16      when to plant your roses and all that. I mean, the  
17      Sea Grant agents tell you when to put the hooks in  
18      the water, so to speak, in those terms.

19               So, they would develop a new thing  
20      and once its developed, they're off of that and they  
21      move to something else. I read recently where Sea  
22      Grant is considering getting into something that  
23      they had never been into before. It's kind of a  
24      watershed change, if it's as I read it, but I

1 haven't talked to any of them about it, and that is  
2 that they would be doing repetitive stuff.

3 Well, what that means is you've got a  
4 bunch of field agents out there, a lot of whom don't  
5 even publicize that it's a Sea Grant field agent.  
6 Most of them are usually in the agriculture  
7 department of a university system, but they are Sea  
8 Grant field agents and they wear another hat, too.

9 But over the years these people have  
10 generally engendered a good working relationship  
11 with the fishing communities, the participants in  
12 the fisheries. And if they're now willing to begin  
13 repetitively annual daily, weekly, continuing  
14 gathering of information, that could greatly enhance  
15 -- and Sea Grant incidentally, is your sister  
16 agency. Might also remind you that the Weather  
17 Bureau is your sister agency, but I think Sea Grant  
18 has a more accurate reputation than the Weather  
19 Bureau does.

20 And they're certainly not only viewed  
21 with respect by the fishermen but other government  
22 agencies, too. And so it might be worthwhile to  
23 pursue that to see if you can work with the Sea  
24 Grant people to establish more of these port samples

1 type operations that may be needed for the  
2 recreational community for the billfish, the tuna,  
3 whatever you want.

4 The system that's developed in the  
5 Gulf is limited to billfish right now because that's  
6 all NMFS wants. When the fishermen want to give  
7 more, NMFS started saying we can't afford to take it  
8 or to get it, so therefore we can't take more. In  
9 fact, it was NMFS because of financial or hiring  
10 freeze reasons, I don't know which one, or both,  
11 that stopped taking non-tournament information. And  
12 now all you have is the tournament information,  
13 although some of the agents who've been around still  
14 collect non-tournament landings because everybody's  
15 always done that.

16 And so I just point this out to you  
17 to see if the possibility exists to solve some of  
18 the administrative, if you want to call it, problems  
19 about money and personnel by working with Sea Grant  
20 on this.

21 RUSSELL NELSON: Chris, it seems to  
22 me the big issue is we're looking with the billfish  
23 rule is reporting, monitoring and the ICCAT cap.  
24 With all deference to my good friend, Mau, he

1       misrepresented history a bit in his recounting the  
2       discussions that the Billfish Panel, which I chaired  
3       for a few years, had. Actually, Mau, you never  
4       voted against it, you always abstained. But the  
5       discussions on having a tag, a body tag for billfish  
6       predated the ICCAT requirement that there be a cap.  
7       The discussions were premised on the fact that we  
8       had an inadequate means of counting recreational  
9       fish, even though that number was relatively small,  
10      that none of the survey vehicles in place would  
11      adequately count recreational fish and our  
12      representation of our recreational catch was  
13      becoming increasingly important at ICCAT.

14               And the discussion was that if we  
15      really want to get a sound count, one could use a  
16      device that's been commonly used in other fish and  
17      game aspects for years, and require those who killed  
18      an animal to have a tag put in place. And  
19      originally, it was not to have a limit on the tags,  
20      but to have the tags out there to be able to  
21      accurately count what was coming in, and also  
22      acknowledging the fact that were we to end up in a  
23      situation where we would have to cap the catch,  
24      having that tag, that vehicle there would give us

1 the means of doing that.

2 And for whatever reason, that wasn't  
3 implemented, and it seemed, I think as I recall, the  
4 only real difficult part of that plan, other than my  
5 friend Mau's philosophical objection, the only  
6 logistically difficult part of that plan was to come  
7 up with how to equitably distribute tags, to make  
8 sure that they were available, given the disparate  
9 geographic and seasonal aspect of the tournaments  
10 and other things, how to get them out there.

11 Unfortunately that hasn't happened,  
12 but that still -- that was the advice that came out  
13 of several years of that panel. Having said that,  
14 speaking from both my hats as a scientist and as a  
15 recreational angler, I know no one in the  
16 recreational community, no one who has put any  
17 thought to the proposed telephone call-in who gives  
18 any credence to it. Actually, a lot of people like  
19 it because they say they're never going to count the  
20 fish, we'll never have to worry about the cap.

21 I would just suggest that there is --  
22 as my other hat as a scientist, I'd suggest that  
23 there is a good body of published information out  
24 there on sampling design, sampling theory, creel

1 surveys, telephone surveys, and I am not an expert  
2 on it, I'm somewhat familiar with it, but I can't  
3 recall anything in that body of published  
4 information which would really support using a call-  
5 in, and even in a call-in and follow-up survey as to  
6 -- you know, giving you good information.

7 Now, perhaps a call-in survey with  
8 randomized visits that were included, one of the  
9 procedures that have just been implemented in the  
10 last couple years with the MRFSS survey for the  
11 party boat sector, where you know, there are call-  
12 ins but there are also random inspections at the  
13 dock to do a ground truthing to see if those vessels  
14 calling in were actually even fishing, something  
15 like that.

16 But I just don't believe that you can  
17 count on the data you're going to get. I don't  
18 believe that from a phone call-in survey. I don't  
19 believe that the data you get from that survey would  
20 improve our estimates of recreational catch over  
21 what they are now, based on the large pelagic survey  
22 and the MRFSS and some reasoned guesstimation by the  
23 scientists. And I think that it would just be a  
24 waste of time and money if that's the only thing

1           that you had to go to.

2                         UNIDENTIFIED:   Thank you, Mr.

3           Chairman.   Russ, that was good.   I agree with Russ  
4           100 percent on that.   We need to move forward.   I  
5           mean, I want to see action here with this committee.  
6           We need to move forward regarding the billfish tags.  
7           I'd like to hear from my good friend, Mike Leech,  
8           and Rick Weber and other people, Rom, that are in  
9           the charter boat business, the recreational sector,  
10          about this.

11                        We need to get some input and come to  
12          a consensus here.   I mean, we've done it before, as  
13          I said before.   NMFS had a program with a metal tag  
14          for bluefin tuna.   And I don't know how old you were  
15          back then, Chris, but they had it and it worked.  
16          And it was a good program.   We can do the same thing  
17          again and just get the tags out there.   You get real  
18          time.

19                        ELLEN PEEL:   Chris, before the agency  
20          jerks extension agents out of the rose garden and  
21          puts them on the dock and asks them to start  
22          counting fish, I'd like to remind you -- and Mau  
23          knows this, he's an advocate of this, as well --  
24          that the system in the Gulf of Mexico, which is the



1 agency system, which is handled through the Panama  
2 City Lab and has been in place since the early '70s,  
3 which employs port samplers of which the Billfish  
4 Foundation pays for through contributions from our  
5 constituency, is a very good program that we would  
6 encourage you to consider trying to duplicate or  
7 replicate throughout the Caribbean and the east  
8 coast, before you go to extension agents.

9 UNIDENTIFIED: Glad to hear the  
10 progressive thought on tags. We're only talking  
11 about 250 animals here. And this is remarkable. I  
12 wonder what we're spending otherwise trying to  
13 collect data on 250 animals and yet still have no  
14 idea what it is that we've caught.

15 Perhaps there's a model that we could  
16 look into. I'm a little familiar with it. I hate  
17 to say the C word, CITEES, but in the United States  
18 there are a number of species that are even under  
19 CITEES there are allowed takes, but under very  
20 controlled conditions and controlled numbers and  
21 animals -- to the animal. Just the same analogous  
22 type situation. Although the numbers are much  
23 bigger.

24 Now, I used to be associated with the

1 fur and leather business and for example there are  
2 tens of thousands of American alligators that are  
3 harvested every year. Each one has to be tagged  
4 individually with a serially numbered CITEES tag and  
5 each animal is identified and tracked through the  
6 entire system, tens of thousands every year. No one  
7 knows who's going to catch them in advance, but  
8 there's plenty of tags for everybody to access. And  
9 yet at the end of the day they can control that  
10 harvest to precisely the number that they've  
11 predetermined is the sort of total allowable catch  
12 for that year.

13 There are fur bearers, which I  
14 believe they do the same thing in the hundreds of  
15 thousands every year, raccoons, muskrat, fox,  
16 beaver, all those different species, end up with  
17 CITEES tags on them and have to be monitored at the  
18 state level in particular, because those are the  
19 implementing agents for the U.S. Fish and Wildlife  
20 Service.

21 The point I'm trying to make is I  
22 think there have been agencies doing this very thing  
23 on a much grander scale for a long time, and our  
24 entire universe is 250. I think that there's got to

1       be some way that if we consulted with how do you do  
2       that over at the Fish and Wildlife Service we might  
3       get some very clean and simple answers as to how to  
4       go about accomplishing this. And we'll get real  
5       data out of it.

6               Because we have an international  
7       obligation to 250 animals. Whether you like it or  
8       not, that's the number that was negotiated. And  
9       frankly I don't see that changing -- I don't see  
10      that increasing anytime soon in ICCAT, particularly,  
11      and I know Ellen wants very much for this to happen,  
12      if the United States goes on a very aggressive  
13      effort at ICCAT this year. We're certainly not  
14      going to put on the table proposals for foreign  
15      longliners to greatly reduce their mortality of  
16      white marlin and at the same time ask for an  
17      increase in our own. I mean, that's obviously  
18      untenable.

19             So, get used to 250 for a while and  
20      let's look at these other technologies and systems  
21      and programs that have been in operation with great  
22      success for years and see if we can't use them as a  
23      model.

24             UNIDENTIFIED: Yes, in regards to the

1 call-in system, it didn't work with bluefin tuna.  
2 It's not going to work with marlin. And as to the  
3 marlin tagging, I think we have to have mandatory  
4 billfish reporting. I mean, we've talked about it.  
5 now is the time to do it. It either has to be  
6 through tournament reporting or it either has to be  
7 through a tag.

8 We've had the bluefin tagging program  
9 -- mandatory bluefin tagging program in North  
10 Carolina now for three or four years. Pres Pate  
11 could tell us for sure. But the program everybody  
12 talked about all the downfalls. It's worked really  
13 well. It's very simple. I think the tagging of  
14 marlin could be handled through state agencies,  
15 through local marinas. You know, before the fish is  
16 brought off the boat, it's either -- it's got to be  
17 tagged. In the case of an outboard, it's got to be  
18 tagged before it's brought out of the water.

19 But I think this is a very, very  
20 minute number, in our area I don't even know of a  
21 marlin that was landed out of a tournament in  
22 Hatteras. In the Oregon Inlet I think there were a  
23 few large fish brought in, 6, 7, 800 pounders, but  
24 not very many.

1 I think the situation is either the  
2 guy's going to be real proud of it and want to hang  
3 it up, and therefore he's going to have a tag on it  
4 because there'll be too many people around looking,  
5 or either he's going to have it hid in the bottom of  
6 the boat because he doesn't want to be chastised by  
7 his peers for killing a billfish.

8 So, I think it's really a very simple  
9 program and it wouldn't take a lot of money to  
10 initiate it and it would give us what we're looking  
11 for. Thank you.

12 UNIDENTIFIED: Thank you. I haven't  
13 heard an answer yet to what Maumus Claverie raised.  
14 How would you get, with only 250 allowable tags or  
15 fish landed, how would you get those 250 tags to the  
16 right people? How would this guy coming into Oregon  
17 Inlet with his 800 pounder know in advance and have  
18 a tag? How would he get that tag? And if you give  
19 him the tag, that only leaves you 249 more -- can  
20 somebody explain that to me?

21 MODERATOR CHRISTOPHER ROGERS: Again,  
22 that was part of the thinking in terms of our  
23 proposal to initially go with a call-in requirement,  
24 because we don't know where those 250 marlin are

1       going to be landed. We did know that the majority  
2       would be landed in tournaments, which are already  
3       captured anyway. And we didn't want to spend a lot  
4       of resources issuing thousands of tags and trying to  
5       keep a count of those tag numbers and who they went  
6       to, for arguably less than 100 fish that would be  
7       landed outside of tournaments, probably something  
8       less than that.

9               In the case with bluefin tuna, again  
10       I'll reiterate it has worked because not only of a  
11       significant commitment on the part of state resource  
12       management agencies but also the private sector in  
13       terms of willing to be there to distribute those  
14       tags and to collect the cards, and funnel those back  
15       through their state resource agencies to the  
16       National Marine Fisheries Service.

17              So, we don't have an aversion to  
18       these types of partnerships. We welcome them. But  
19       they do take resources and commitments beyond what  
20       the agency has, and you know, we have set up the  
21       regulations so that we sort of facilitate -- set the  
22       groundwork for these cooperative arrangements.

23              And again, I would think that it  
24       would be quite simple to expand on the bluefin tuna

1 tagging programs in North Carolina and Maryland to  
2 capture any marlin through those existing programs.  
3 But to start something like that in each state does  
4 take some time to set up and it's going to take some  
5 money transferred and some contributions from the  
6 state and the private sector. It's going to take a  
7 while to get those in place, and we didn't have much  
8 time.

9 Arguably, we're a year late in  
10 implementing this thing already with respect to  
11 having an accountability for marlin landing during  
12 our 2001 fishing year. We had the 800 number  
13 already set up within the Division for folks to call  
14 in and ask questions on fishing regulations. And  
15 for the arguably less than 100 fish that would be  
16 required to be called in under this program, that  
17 was deemed to be the quickest and most cost  
18 efficient way of doing that.

19 If folks -- you folks have the pulse  
20 of your constituents. If you feel that folks have  
21 no interest in calling in those catches, and that it  
22 has to be some sort of -- some peer pressure, so to  
23 speak, with a visible tag in the fish prior to  
24 landing that fish and taking it off the boat or

1       taking it across the dock, then we'll definitely  
2       have to pursue that in the long run. But it is  
3       going to take some money and it's got to be a bigger  
4       program than 250 tags, because we're not going to be  
5       able to find out where those 250 tags need to go in  
6       advance. It's probably going to have to several  
7       thousand tags, if not more, to go out just to cover  
8       the bases of where they might be landed.

9               UNIDENTIFIED: Could I add just one  
10       more thing? In Florida we have a tarpon tag and you  
11       pay \$50 and I think the money goes into research,  
12       and at first they anticipated selling I think  
13       several thousand tarpon tags, and the reality of it  
14       was -- and Russ will know these figures better than  
15       I am -- I think we end up in the State of Florida  
16       selling 7 or 800 tags and maybe -- how many?

17              UNIDENTIFIED: Around 250 last year.

18              UNIDENTIFIED: 250?

19              UNIDENTIFIED: We have a lot of guys  
20       who buy them (inaudible.)

21              UNIDENTIFIED: Right, exactly. So,  
22       we sell 250 and what comes in, 50?

23              UNIDENTIFIED: (Inaudible.)

24              UNIDENTIFIED: If you want to put a



1        tarpon in the boat, you must have a tag. And it  
2        costs \$50. And they sell 250, according to Rob, and  
3        maybe somewhere around 50 tags are actually reported  
4        being used each year.

5                   UNIDENTIFIED: (Inaudible.)

6                   UNIDENTIFIED: No, they expire at the  
7        end of the year and if -- next year you buy another  
8        one if you think you might want to land a tarpon.  
9        And I think mostly it probably goes to guides.

10                  UNIDENTIFIED: (Inaudible.)

11                  MODERATOR CHRISTOPHER ROGERS: Okay.  
12        Well, I would presume that that's primarily a  
13        targeted situation, or is it a situation where  
14        somebody might catch a tarpon and say well, geez, I  
15        wish I had the tag? You know, obviously that's what  
16        we'd want to avoid is putting somebody in a  
17        situation of having the catch of a lifetime, so to  
18        speak, and wanting to land it because it might be a  
19        state record or -- you know, certainly above the  
20        minimum size and -- or for whatever reason is not  
21        able to land it because they wouldn't have access to  
22        a tag.

23                  UNIDENTIFIED: (Inaudible.)

24                  MODERATOR CHRISTOPHER ROGERS: Okay.

1 Joe McBride.

2 JOSEPH MCBRIDE: The question of  
3 billfish with tags, I really don't see the  
4 complexity. For example, we were talking about the  
5 call-in not being -- not having a great degree of  
6 integrity, and perhaps success, and the ability to  
7 be respected. But you have your basic data on  
8 marlin from the tournaments. Is that correct?

9 MODERATOR CHRISTOPHER ROGERS: That's  
10 correct.

11 JOSEPH MCBRIDE: I mean, they're  
12 recorded, logged in, and so forth. Your second base  
13 is perhaps on the charter and party boats who are  
14 mandated to fill out the daily logs on what they  
15 have. I mean, is that acceptable to you guys?

16 MODERATOR CHRISTOPHER ROGERS: Well,  
17 it's not clear that all of the charter boats would  
18 be in a position of having a logbook issued to them,  
19 depending on the fisheries they're involved in.

20 JOSEPH MCBRIDE: Well, almost -- all  
21 right. Certainly those that are in the charter and  
22 head boat category for the National Marine Fisheries  
23 Service are mandated to do a log; are they not?

24 MODERATOR CHRISTOPHER ROGERS: If

1       selected. And we have --

2                   JOSEPH MCBRIDE: Well, in the  
3       northeast, we're all in the groundfishery -- in the  
4       multispecies and we all have logbooks. So, I'll be  
5       parochial in regard to that.

6                   Now, secondly, so you -- let's say  
7       hypothetically that a tournament in Cape May lands  
8       from your statistics 20 fish a year, marlin of one  
9       kind or another. You give them 20 tags. And you do  
10      that up and down the coast. There aren't that many  
11      tournaments -- they need a few more, you'll give  
12      them a few more, and so forth and so on.

13                  Then you also do, as I suggested in  
14      the past when we came to the tagging the school  
15      bluefin, you have harbor agencies. For example, in  
16      the harbor of Montauk you might pick a marina or  
17      prominent marina that involves itself with  
18      conservation and supportive of the National Marine  
19      Fisheries, as we have many in the harbor with the  
20      shark fisheries, and we tag many more than 250 tags.  
21      I probably tag 200 sharks myself annually, and  
22      doesn't cost you a penny outside of the two girls'  
23      salary. The rest of it is from various donations  
24      from different people from the hats to the tags.

1                   And this could be done. You'd have a  
2           -- I don't think we brought a marlin into the harbor  
3           or Montauk last year. I mean, and we catch some  
4           incidental catches of blue, I have, you know,  
5           whether they're 1,000 pounders or 400 pounders, we  
6           take a picture, you don't need it for a mount. If  
7           you came into the harbor and brought it in and hung  
8           it up they'd laugh you out of the harbor, and it  
9           wouldn't be long before the peer pressure would stop  
10          recreational and charter and party boats from doing  
11          that, with few exceptions.

12                   And the exceptions would be given if  
13          let's say a Joe Blow catches a very large marlin,  
14          wants to bring it in for say nothing other than  
15          public relations or what have you, or to have some  
16          pictures taken because it was so unusual, or a state  
17          record, you'd have an agency in the harbor with X  
18          amount of tags, he'd give him one, and you could  
19          replace it later on.

20                   I don't see the complexity of all  
21          this. And you have some factual records there,  
22          nothing's perfect, but certainly a lot better than a  
23          call-in system. And the cost of 1,000 tags, and you  
24          use your first 250 and close it down if that need to

1       be the case, if that's the mandate. I just don't  
2       see the complexity of it. And maybe I'm wrong and  
3       maybe you want to answer me, Chris. All right. You  
4       don't want to answer me.

5                   MODERATOR CHRISTOPHER ROGERS: Well,  
6       it's -- again, the question of getting the tags to  
7       the right people at the right time. And you know,  
8       we do have a lot of restrictions on us in terms of  
9       budget and people managing it and tracking the tags.  
10      I like the idea of tags expiring, but then you have  
11      to reissue them the next year. If it's a question  
12      of 250 tags that expire and you replace them, that's  
13      not so much an issue, but if it's a question of  
14      putting out 10,000 tags a year for something like  
15      bluefin tuna, if we expand into those programs up  
16      and down the Atlantic seaboard, that's certainly a  
17      concern, that you don't want a large amount of  
18      unused tags to be just thrown away and have to  
19      reissue them and keep track of the numbers each  
20      year.

21                   So, again we're not averse to this,  
22      but it's going to take some time to work out these  
23      relations, identify these port agents that --  
24      certainly those who are in NMFS employ or Sea Grant

1 agents, we can have ready access to. Some of them  
2 are not known to us because they're state employees  
3 or even in the cases of our programs in Maryland and  
4 North Carolina, just identifying those private  
5 sector individuals who'd be willing to help out.

6 So, we do recognize that it's  
7 probably the way we need to go, but it does take  
8 some time and money and forging those relationships  
9 to get it off the ground.

10 JOSEPH MCBRIDE: You know, the money  
11 I can't understand. Unless there's something in the  
12 background. You're not hiring new employees.  
13 You're not buying buildings or renting buildings in  
14 a given area. You have in many of these areas  
15 employees, one way or the other, of the National  
16 Marine Fisheries Service, whether it's police -- you  
17 know, whatever the term is they use, enforcement  
18 agencies, up and down, you know, Shinnecock to  
19 Montauk -- I'm going to be again speaking about my  
20 own particular area. These are available. They can  
21 work out of -- as I say, with no cost whatsoever,  
22 and I'm sure Nelson's group and we'll even chip in  
23 with them, will buy the tags for you. That's the  
24 guys we are. We want to see these tags go into the

1 fish.

2 MODERATOR CHRISTOPHER ROGERS: Okay.  
3 Let me go down the list. We have Mau Claverie, Mark  
4 Sampson, Russ Nelson, Nelson Beideman, Jim Donofrio,  
5 Rick Weber, Henry Ansley and Bob Pride. And we've  
6 got a half an hour here. So, let's get down that  
7 list and try to be brief. Mau.

8 MAUMUS CLAVERIE: I can filibuster.  
9 Thank you. I want to talk about alligators and tags  
10 and equitable distribution. You heard about  
11 alligators. I know about the state of Louisiana and  
12 alligators. And there are tags for the alligators,  
13 and they're because of CITEES, and alligators used  
14 to be ESA, but they're no longer -- at least in  
15 Louisiana. And because of CITEES, the products have  
16 to be definitely identified as coming from someplace  
17 where CITEES says it's okay to kill them.

18 They do know who's going to get the  
19 alligators because alligators live on land and the  
20 way it works in Louisiana is the scientists, the  
21 biologists or whatever you call it, go out and  
22 determine the amount of alligators where, and they  
23 determine that in certain areas they can issue --  
24 they can allow to be killed so many alligators per

1 acre.

2                   And that land on which those  
3 alligators reside is owned by somebody. And that  
4 somebody gets so many tags per acre or so many acres  
5 per tag, and that somebody distributes the tag to  
6 who that somebody wants to take the alligators,  
7 which is usually the trapper on who has an agreement  
8 with the land owner.

9                   And that's how that works. It's not  
10 a random thing. And alligators don't swim around  
11 the ocean, and they know exactly how many there are  
12 supposed to be -- or at least how many they can take  
13 per acre, or vice versa. And it's that sort of  
14 thing.

15                  It's really not like the fisheries  
16 where nobody owns so many acres of water and the  
17 fish have these tails and they clear through your  
18 acreage into my acreage real fast anyhow.  
19 Alligators don't seem to do that very much. So,  
20 that's not a good system to compare the success of  
21 an alligator tagging program with what would happen  
22 in the Highly Migratory Species fisheries.

23                  Let me say it very clear. If tags  
24 are used to count and identify fish that are landed,



1       that's fine. You've heard me say don't even touch  
2       that idea, because I've heard the agency, I just  
3       heard Russ say distribution of tags is a way to  
4       control the landings of the fish, who can land them  
5       where and when.

6                   Chris, I'm hearing you say otherwise.  
7       That's a breath of fresh air from the agency. I  
8       heard said that tags could be used -- could be  
9       equitably distributed. That intimates that they're  
10      going to be used to distribute where landings can  
11      be, and who can land the fish. I think that's very  
12      bad, because it's contrary to the principles of --  
13      you know, for all of us up to the point.

14                   I remember the original bluefin tuna  
15      tags, which were what was called shipping tags, are  
16      the tags you use to seal the doors on rail cars and  
17      truck -- and once you lock it together, the only way  
18      to undo it is to cut it, to break it. And that's  
19      the kind of tags that were distributed and I don't  
20      think they're terribly cheap. They may be, but they  
21      weren't in the -- the bluefin tuna program, at least  
22      in South Pass Louisiana didn't work because you were  
23      supposed to attach the tag and you were supposed to  
24      -- if there was no sale involved, which Glen,

1       believe it or not, we landed a bunch of bluefin tuna  
2       and none of them were ever sold, and these were much  
3       more than \$300 fish, in the recreational fishery,  
4       out of South Pass, Louisiana.

5               We landed them and we took them home  
6       in Igloos and ate them. But only after waiting the  
7       12 hours -- you had to notify an enforcement -- a  
8       NMFS enforcement agent, I think it was 12 hours, it  
9       might have been 24, give them 12 or 24 hours to come  
10      look at the fish. Well, the fish had already been  
11      looked at by the port agent and measured and  
12      everything else, and we built a refrigerator house  
13      to put these fish in so that it wouldn't spoil, so  
14      that the next day, whenever it was, two days later,  
15      we could take home.

16             So, that was a failure in that system  
17      and it didn't -- in fact, when it was first  
18      implemented NMFS didn't believe that bluefin tuna  
19      were landed and not sold, but in fact they were.

20             So, if you're going to have multiple  
21      counting systems, you're going to have the regular  
22      tournament system, you're going to have the port  
23      agent system that still works out of habit in the  
24      Gulf on non-tournament landings, and you're also

1       going to have this call-in system or whatever you  
2       want to call it.

3               You need probably to identify a fish  
4       by a serial number of some kind, so that the same  
5       fish doesn't get counted twice, which we have  
6       experience with that happening, it happened in the  
7       Gulf of Mexico when the Gulf Fishery Council ran a  
8       project to find out how many blue marlin had  
9       actually been landed in a certain year, because I  
10      was complaining that Bearsley reported to NMFS that  
11      we killed 1200 blue marlin in the Gulf, and our  
12      figures showed say 296 or something. It wasn't that  
13      high. Whatever it was.

14             And so the Gulf Council spent a lot  
15      of money to figure it out and they got 297. And  
16      they chided me because we were one off, but we knew  
17      that one of those blue marlin had been landed and  
18      weighed in at the Grand Isle Rodeo and then put on a  
19      float plane and flown over to Biloxi, I think it  
20      was, and entered in the Mississippi Fishing Rodeo,  
21      which is perfectly legal. But it was counted as two  
22      fish and we in the system, the system itself, knew  
23      that that was really the same fish.

24             So, you might need a serial number on

1       a fish to be sure that, you know, that it's not  
2       counted twice. That would be very important.

3               And so if you're going to use it to  
4       distribute who can catch the fish, or if you're  
5       going to use it to raise money like they did in  
6       Florida, or in any way limit the number of fish that  
7       can be landed other than complying with the 250  
8       count, it's going to be bad news.

9               But if you can distribute the tags  
10       free and easy, which intimates that they shouldn't  
11       expire, all you need is a serial number and don't  
12       duplicate it -- you might get up in the millions  
13       before the century's over -- that wouldn't be all  
14       that bad. But you've got to be sure that anybody  
15       who wants them can get them, as many as they want,  
16       to use whenever they want, you know, so that it's  
17       not a restrictive situation.

18               JOHN DUNNIGAN: Folks, we're not  
19       going to design a tagging program here this  
20       afternoon. I don't want to reduce anybody's  
21       opportunity to talk, but I'm just guessing that  
22       there may be a lot of other issues that you want to  
23       talk about relative to billfish management this  
24       afternoon, and we'd like to make sure you all have

1 an opportunity to do those.

2 So, I think we're getting the message  
3 on how you feel about the call-in system. So, if we  
4 can maybe not be repetitive and try to plow some new  
5 ground.

6 MODERATOR CHRISTOPHER ROGERS: Okay.  
7 Mark Sampson.

8 MARK SAMPSON: It's been so long  
9 since I think my name went on that list, I don't  
10 even know if we're on the same topic, let alone know  
11 what the heck I was going to say.

12 JOHN DUNNIGAN: You were going to try  
13 to get us back to billfish.

14 MARK SAMPSON: I know, but  
15 unfortunately it is on tagging and I will make this  
16 very brief. This all does --

17 UNIDENTIFIED: (Inaudible) talk about  
18 alligators.

19 MARK SAMPSON: -- tend to remind me  
20 of what we went through a number of years ago when  
21 we in Maryland and other places along the coast were  
22 trying to talk the agency into a bluefin tagging  
23 system, and I can remember the frustration of being  
24 told that you have the call-in deal and that's what

1       it is, even though you all agreed that it didn't  
2       work, but that's what it was and we said, you know,  
3       we want you all to have good data.  Anyway, back and  
4       forth.

5                   Long story short, with Maryland and  
6       of course North Carolina having their tagging  
7       programs, I think that you probably will agree, too,  
8       that the data you receive from Maryland and North  
9       Carolina for bluefin landings through the tags is  
10      probably far superior, much better reflective of  
11      what's being caught than the LPS data?  I think  
12      probably it blows it away.

13                  And probably looking into the future,  
14      not just with the billfish, but with probably all of  
15      the HMS species, tagging might be the thing of the  
16      future, and for all the species, and it might even  
17      go beyond the LPS.

18                  Anyway, what better opportunity than  
19      with a fishery right now that's limited strictly to  
20      a catch of 250 fish?  I mean, why not get started in  
21      it now?  You know, I don't quite understand why the  
22      agency shows this resistance.  I know there's a lot  
23      of logistical problems in it.  I have faith in you  
24      that you can make it work.  I won't sit here and say

1 well, use this type of tag and use this type of  
2 numbers or whatever. You can do it. We have faith  
3 in you, you know? And Lord knows there's plenty of  
4 suggestions going around here. I mean, they tag  
5 alligators, ducks, deer, sharks, the whole nine  
6 yards. You can make it work, if you want to do it.

7 And we certainly hope -- obviously  
8 this is one of the few things that probably most  
9 people will come to consensus on, that we would like  
10 to see you make this work one way or the other,  
11 certainly for billfish and then again looking into  
12 the future you might drag it out into other species.

13 MODERATOR CHRISTOPHER ROGERS:

14 Thanks, Mark. Russ Nelson.

15 RUSSELL NELSON: Not to beat a dead  
16 horse, but I mean there's an institutional problem  
17 here, I think, and it just needs to be looked at.  
18 This debate started five years ago. The reaction  
19 back then and the response when the amendment to the  
20 Billfish Plan was put in place was it might be a  
21 good idea, but we don't have time to do it now.

22 Chris, I've just heard you say again  
23 now this could be a good idea, but we don't have  
24 time to do it now. Yet in all that time, there has

1 not been an accurate system implemented, perhaps  
2 outside the Gulf -- with the exception of the Gulf,  
3 Mau, an accurate system implemented to count  
4 billfish.

5 And we have gotten ourself in a  
6 position with ICCAT where we have to count billfish.  
7 I'm beyond advocating the tag or whatever, but you  
8 all have to do something and you have to do it now,  
9 or else we're -- you know, whatever modest gains  
10 we've made internationally are going to go down the  
11 tubes.

12 You can't just keep saying this could  
13 be a good idea, but we just can't do it now.  
14 Somebody has got to decide yeah, we've got to do it  
15 now and we've got to do it right.

16 MODERATOR CHRISTOPHER ROGERS:

17 Thanks. Nelson Beideman.

18 NELSON BEIDEMAN: I appreciate  
19 Russell's thoughts as far as the tagging goes,  
20 because I have been in three or four meetings where,  
21 you know, unless I'm going senile, most of the room  
22 was saying yes, we need a tag program.

23 But moreover, the commercial fishery  
24 has a lot of incentive and has been working on this



1       for decades. Decades. We want every single fish  
2       that we catch counted. Rom Whitaker has come to  
3       that realization the last few years. He wants every  
4       fish that the recreational fishery catches counted,  
5       wants that accounting at ICCAT, wants that  
6       allocation in the United States to his fishery  
7       vitally, critically important. Where we're at,  
8       we've got permitting in the commercial fishery. We  
9       don't have permitting in the recreational fishery.

10               We've got reporting. We do logbooks.  
11       We pass regulations that say recreational charter  
12       and head boats are supposed to be doing logbooks  
13       according to the FMP and all the discussions we've  
14       had for years over that issue. Not happening.

15               Monitoring. We have observers.  
16       Maybe not enough. But we have observers. The  
17       recreational equivalent is dockside intercepts. Do  
18       we have comparable level of dockside intercepts to  
19       the observers that we have on commercial boats? Do  
20       we have the observers that were placed in the FMP  
21       for charter and head boats?

22               I've been to meeting after meeting  
23       after meeting to these panel meetings and every  
24       other type of task force and everything else, and

1 ultimately after years of discussion it comes to the  
2 conclusion that you need permitting, you need an HMS  
3 recreational and an HMS commercial permit, with the  
4 proper validations on it. You need reporting. You  
5 need monitoring for a check on that reporting  
6 system. And that's what it always comes to.

7 And basically, the commercial has  
8 been trying to get it right for decades now. We  
9 haven't gotten it right, but I'll tell you we're  
10 about 20 years ahead of you.

11 MODERATOR CHRISTOPHER ROGERS: Okay.  
12 Jim Donofrio.

13 JAMES DONOFRIO: Thank you, Mr.  
14 Chairman. I want to reiterate what Jack said. We  
15 had, as you know, Chris, we had a meeting as I said  
16 in New Orleans. You had the best and the brightest  
17 there regarding the tag system. What we need from  
18 the agency today, we can debate this thing how we're  
19 going to do it forever. What we need from the  
20 agency today is a commitment to say we're going to  
21 move forward. I suspect there is a group of us here  
22 that would volunteer -- we're here a lot in  
23 Washington and we're nearby, got a tournament  
24 operator here, one of the biggest tournaments on the

1 east coast, you've got the IGFA, you've got other  
2 people, you've got Billfish Foundation, you can get  
3 us to either conference call and put some of the  
4 ideas together and decide how we're going to put it  
5 together. We're not going to solve this today. We  
6 worked three days just trying to figure it out last  
7 time in New Orleans.

8 So, we just need to get the OK that  
9 you've got the will to go forward with this -- as  
10 Russ said, we've been talking about this for five  
11 years. We want to hear an answer that we're going  
12 to move forward. We'll put the committee together  
13 to work and put it -- you know, put it to use here.  
14 There's a lot of ways. This is not rocket science,  
15 trying to do -- the few people that are killing a  
16 few fish. Most of our community is catch and  
17 release and they wouldn't be caught with a marlin at  
18 the dockside. The regular non-tournament people  
19 just don't want to be seen with one for most.

20 And Nelson, I respectfully disagree  
21 with you. We hired Dick Stone and Eleanor Bohanek  
22 to charter and party boat. Reporting logbooks were  
23 never used. These guys reported. NMFS had them  
24 locked up in Massachusetts in a warehouse and they

1       never used them. So, shame on the people that put  
2       them in there, and it wasn't the charter and party  
3       boats' fault. They did their reporting.

4               MODERATOR CHRISTOPHER ROGERS: Okay.  
5       Rick Weber.

6               RICK WEBER: I'm going to continue  
7       pounding on the dead horse. Because I think I have  
8       something that has not been said. Jack, you said if  
9       there was anything new, I have it. A hybrid between  
10      the two. Widely distributed tags that are only  
11      validated with a number -- with a validation number  
12      that comes back from a call-in system. Now you've  
13      got -- it's no longer a voluntary call-in system,  
14      because your fish is not legal until you have the  
15      validation number on it. But everybody has a tag.

16              Enough of that. Moving on. The 250.  
17      250 continues to bug me. What happens when we hit  
18      250?

19              UNIDENTIFIED: (Inaudible.)

20              RICK WEBER: True, Chris?

21              MODERATOR CHRISTOPHER ROGERS: Well,  
22      we haven't established in the regulations any  
23      mechanism for closing the fishery like we do for  
24      other quota managed species. Again, it was our

1 belief when we agreed and negotiated the 250 marlin  
2 that was well within our level of activity.  
3 Certainly if we implemented a program that indicated  
4 consistently that we were above 250, provided that  
5 ICCAT extends that recommendation out beyond 2002,  
6 we would have to do a rulemaking to implement some  
7 mechanism to shut the fishery down or if we get into  
8 the same scenario as bluefin tuna, monthly quotas or  
9 regional set-asides, all that kind of stuff. And we  
10 didn't feel it was warranted to do that kind of  
11 rulemaking in a hypothetical sense until we knew  
12 that were above that limit.

13 RICK WEBER: My outside understanding  
14 of what happened at ICCAT was that it was  
15 essentially the 250 was agreed to be status quo,  
16 that we did not take a reduction but rather this is  
17 an estimate of what you catch.

18 MODERATOR CHRISTOPHER ROGERS: Right.

19 RICK WEBER: There were numbers used  
20 to generate them. We are using extraordinary  
21 methods now to find additional fish that were not  
22 included in our 250 count. Wouldn't we still be in  
23 compliance if we went over 250 if we adjusted it for  
24 the new yardstick? If compliance is status quo and

1 we adjust status quo, then is the 250 a hard cap?

2 MODERATOR CHRISTOPHER ROGERS: That  
3 would be a matter of renegotiating an agreement at  
4 ICCAT. Again, this was --

5 RICK WEBER: Why?

6 MODERATOR CHRISTOPHER ROGERS: --  
7 with respect to 250 marlin for the years 2001 and  
8 2002. So the recommendation doesn't speak --

9 RICK WEBER: Using a particular  
10 yardstick though, eh?

11 MODERATOR CHRISTOPHER ROGERS: Right.  
12 But with respect to what applies in 2003, the United  
13 States would have to go and basically indicate that  
14 the 250 previously agreed to that was intended to be  
15 status quo was apparently not, and we'd have to  
16 argue for some other number. I had -- I guess you  
17 could say a rude awakening at last ICCAT meeting  
18 about asking for a few hundred tons of albacore.  
19 So, it's not as easy as that. But certainly could  
20 be argued and I would say it would have to be  
21 skillfully argued.

22 RICK WEBER: Further, if we hit the  
23 250, is that public information? Can I find out the  
24 250?

1                   MODERATOR CHRISTOPHER ROGERS: Well,  
2                   we're very public with bluefin tuna when we do quota  
3                   monitoring there. We get basically a dealer report  
4                   that goes out each week and people call in all the  
5                   time and basically tell them where we're at relative  
6                   to the quota. We do a fax broadcast with respect to  
7                   swordfish, not the same frequency as bluefin tuna,  
8                   but -- and similarly with sharks, based on dealer  
9                   reports. So, it certainly is public information.  
10                  we have no desire to hide that from anybody.

11                 RICK WEBER: All right.

12                 UNIDENTIFIED: (Inaudible.)

13                 MODERATOR CHRISTOPHER ROGERS: Right.  
14                 We could do projections, but again, given the nature  
15                 of this fishery, it's hard to make a projection,  
16                 even bluefin tuna's hard sometimes.

17                 RICK WEBER: Thank you.

18                 MODERATOR CHRISTOPHER ROGERS: Okay.  
19                 We had Henry Ansley.

20                 HENRY ANSLEY: I kind of liked his  
21                 idea over there, but I was thinking it seems like  
22                 there ought to some way to lock it in with the -- I  
23                 think most billfishermen get their tuna permit.  
24                 There ought to be something you could do along that

1 same line. Pat doesn't have anything to do anyhow,  
2 so you might as well give them some extra work to  
3 figure out something. It seems like that's when  
4 you'd get most billfishermen would likely have their  
5 tuna permits. And that might be a way -- a  
6 mechanism to look at that's already there.

7 ROBERT PRIDE: Henry just got my  
8 point. I mean, we're already permitting the tuna  
9 fishermen. I think they're the same group of people  
10 basically. There are probably a few folks that it's  
11 billfish exclusively, they don't bother to get the  
12 tuna permit, but I doubt there's a handful. And I  
13 think that looking at that database would give you  
14 the impetus for where your tagging effort needed to  
15 go and where your ports were and that sort of thing.

16 UNIDENTIFIED: Thanks a lot, Chris.  
17 If I understand right the commitment of the 250  
18 white marlin, the purpose of this measure is to  
19 reduce the mortality by limiting the number of fish  
20 that can be landed. So, there's two things going on  
21 here, if I've got it right. We're trying to reduce  
22 the mortality of white marlin by controlling a  
23 number of fish that can be legally landed.

24 If this is the correct interpretation



1 of things, I think there's a very easy way to deal  
2 with the distribution of these 250 tags. And this  
3 is just by looking at how big game mammals are  
4 managed in research. And just take the example of  
5 how do we manage bears in British Columbia in Canada  
6 or lions in the Serengeti. You sell to -- each of  
7 the animals to the highest bidder, and you put -- I  
8 don't know, a high price on the tags and you just  
9 sell only exclusively 250 tags and I don't know what  
10 the number -- the cost is going to be. \$1,000,  
11 \$2,000. That is to be determined later.

12 But basically just say okay, there's  
13 only going to be 250 fish that are legally landed,  
14 and we're going to get a good revenue out of these  
15 and by putting a sufficiently high price, other  
16 people will just opt out of killing a white marlin.  
17 They won't be interested because they cannot afford  
18 it or they think it's not enough incentive for them  
19 to do it. You'll reduce the number of people that  
20 are interested in doing it. You control exactly  
21 there is going to be only 250. And on top of that,  
22 you get a lot of revenue that can be used through  
23 National Marine Fisheries Service for research on  
24 the species or in monitoring or any other activity

1       that NMFS considers pertinent.

2                   MODERATOR CHRISTOPHER ROGERS:   Excuse  
3       me.   We wouldn't be able to charge a fee currently  
4       under the Magnuson Act.   The fee is -- any fees that  
5       we would charge for things like permits or tags  
6       would be to cover administrative expenses only.   So,  
7       it wouldn't be considered a revenue generating  
8       device for funding research.   But an interesting --  
9       an interesting idea.

10                   Glen, you were next, but I see that  
11       Pamela Basco, who's at her first meeting, and I'll  
12       give deference to the lady.   It's a late hour.

13                   PAMELA BASCO:   I'm new to all of  
14       this, so -- talking about the allocations, whether  
15       it's a tag or some other way to make it equitable, a  
16       lot of people are talking just about U.S. ports and  
17       U.S. tournaments, but what about foreign ports, if  
18       you have an angler that's in Medeira or Venezuela or  
19       someplace and happens to get lucky and land a world  
20       record fish?   Is he going to have to call in every  
21       day before he gets on the boat or he's got a fish  
22       hook up and they say you may have a record, do you  
23       have to get on the phone and call and say are you at  
24       250 yet?   You know?   It's something that you have to

1 think about as far as the foreign ports, as well.

2 UNIDENTIFIED: (Inaudible.)

3 PAMELA BASCO: U.S. angler, yes.

4 MODERATOR CHRISTOPHER ROGERS: Right.

5 There is -- there was a provision in this call-in  
6 system. We were trying to do some tests to see  
7 whether our 800 number was accessible from overseas  
8 places, where the likelihood of a U.S. vessel -- the  
9 key is it would have to be landed from a U.S.  
10 vessel. Then it would be subject to the 250 limit.  
11 If it's an angler on a charter of let's say a  
12 Venezuelan vessel, then that would be a matter for  
13 Venezuela to account for that fish.

14 But if it's a U.S. vessel operating  
15 overseas, whether in a tournament or just on tour,  
16 so to speak, it would be covered, and that was also  
17 our concern with distributing tags in a situation  
18 like that.

19 PAMELA BASCO: It was my  
20 understanding that that was 250 total and it applied  
21 to a U.S. citizen on a foreign boat.

22 MODERATOR CHRISTOPHER ROGERS: Not on  
23 a foreign boat, no. It would be landed from a  
24 vessel of the United States. Glen.

1                   GLENN DELANEY: A couple  
2           clarifications on the ICCAT provision. You know,  
3           the best information -- we ask NMFS and other  
4           sources, Billfish Foundation, for the best estimate  
5           of what status quo was at the time, so that we could  
6           put that number forward, and in fact we were advised  
7           that that was a generous number. And -- but the  
8           provision itself is very explicit in terms of the  
9           number. It doesn't say status quo. It says 250  
10          fish. And you know, that also had some political  
11          benefits to it that generated -- or at least  
12          supported our ability to generate concessions in  
13          fisheries that have very significant mortalities by  
14          also being able to put something on the table  
15          ourselves.

16                   Just to clarify Chris's point, but  
17          when you reach 250 you don't necessarily have to  
18          shut down the fisheries. You just go to catch and  
19          release 100 percent. And it doesn't mean you can't  
20          go white marlin fishing, but you wouldn't land any  
21          white marlin. That doesn't help tournaments much, I  
22          understand that, but just to clarify that point.  
23          You don't shut down the fishery. You just go catch  
24          and release.

1                   Now, back to Mau, I don't know what  
2                   he was saying about alligators, but you know,  
3                   there's a lot of people in New Orleans who are so  
4                   out of touch with the State of Louisiana. This may  
5                   be an example of that.

6                   MAUMUS CLAVERIE: I said, Glen, the  
7                   land owners get the permits there's so many  
8                   alligators per acre or so many acres per alligator,  
9                   and that's who gets the permits and they distribute  
10                  them to --

11                  GLENN DELANEY: The licensed trappers  
12                  get --

13                  MAUMUS CLAVERIE: One of the movie  
14                  cowboys came to Lafete -- it was either Gene Autry  
15                  or Tom Mix, he wanted to shoot an alligator. They  
16                  went to the Little Lake Club and the guy came to  
17                  pick him up at the dock and he's standing there with  
18                  his boots, his everything on, cowboy style, twin --  
19                  he says who you think you are, Gene Autry? He says  
20                  yeah, that's me. Glad to meet you. He came over to  
21                  shoot an alligator. Somebody said you can kill the  
22                  one that I'm going to hook on my permit.

23                  GLENN DELANEY: We'll have a drink  
24                  later and tell Louisiana stories, but literally in

1       30 days in the month of September every year, about  
2       30,000 or more alligators are taken in the State of  
3       Louisiana. And they only have a little over 4  
4       million people. But anybody who wants to have  
5       access to those tags -- licensed trappers can get  
6       alligator tags. That's with the egg collection, not  
7       just -- but the tags can go to licensed trappers, as  
8       well. And they allocate the number of animals that  
9       can be taken from certain tracts of land, but the  
10      tags can be held by trappers. In any case --

11               MODERATOR CHRISTOPHER ROGERS: I know  
12      that the AP has requested more input on the agenda,  
13      but I don't think we can allow room for alligators  
14      anymore.

15               GLENN DELANEY: The point is we've  
16      got a system -- let me finish. There's a system  
17      there, serially numbered, there's not -- this  
18      duplication thing you brought up is a red herring.  
19      They're very inexpensive, another red herring.  
20      They're indestructible tags. They cost pennies.  
21      They sell them a lot to the -- you pay a lot to get  
22      one of those, relatively, to help support the cost  
23      of the program.

24               And what really makes it work --

1       somebody touched on it over there -- was there is  
2       such a huge penalty for the possession of an  
3       untagged animal that no one -- I mean it's subject  
4       to Lacey Act because it goes into trade, which is  
5       criminal and civil, big time, plus you're out of the  
6       business. So, there's such an enormous disincentive  
7       to cheat. And if you created that scenario in this  
8       situation, no one would dare -- how would they show  
9       up at a -- what do you do with these fish? You hang  
10      them up, take a picture, get it weighed by Mike  
11      Leech, and then what? You get a plaster cast of it?  
12      Somebody's got to go make that plaster cast.

13                   Mike Leech has to measure it. That  
14      fish better have a tag in it or he's going to get  
15      reported. Otherwise, what do you do? Take it home  
16      and eat it? What are these 250 fish being used for?  
17      Can anybody answer that?

18                   UNIDENTIFIED: (Inaudible.)

19                   GLENN DELANEY: The point is it can  
20      be done and we've got a good model from your sister  
21      agency over there. Just ask them how to do it.

22                   MODERATOR CHRISTOPHER ROGERS: All  
23      right. We're at 6:30. And although I did say I  
24      would miss a train, there is one more, but I was

1 holding it in reserve. I think we're about ready to  
2 wrap it up.

3 For those billfish folks who are not  
4 going to be with us tomorrow, because of that prior  
5 commitments to meeting in Florida, thank you very  
6 much for attending today and we'll let you know all  
7 the deliberations that we have for the next two  
8 days, primarily bluefin tuna and sharks and  
9 swordfish. But billfish is always on our mind, not  
10 too far away.

11 I know Jill had one parting comment  
12 and Jim Donofrio. Then is that John Graves' finger?  
13 All right. Last three.

14 JILL STEVENSON: On the tagging  
15 program, I know it's as painful for us, Nelson, as  
16 it is for me to sit here and listen to this, because  
17 we've had this conversation 100 times, but it may be  
18 more painful for me because I know that internally,  
19 you know, I have drafted multiple options for  
20 tagging programs within NMFS and we do often -- NMFS  
21 comes to this point where it's like okay, well  
22 there's not the funding for this program.

23 So, I would like to suggest that if  
24 this group goes any further to discuss tagging



1       programs, we talk about how we're going to get the  
2       funding for a tagging program, because even though  
3       it may not cost a lot of money, it costs somebody to  
4       write the regulations and to write the NEPA analysis  
5       and to coordinate the program. So, I would say if  
6       there's any more discussion tomorrow or onward, we  
7       talk about funding.

8               I don't know what the other thing I  
9       was going to say -- that's all.

10              JAMES DONOFRIO: Thank you, Mr.  
11       Chairman. You know, I have to agree with Nelson. I  
12       believe in all this equity and everything being in  
13       balance, so in the spirit of that, in the spirit of  
14       that, I'm going to drop the atomic bomb here right  
15       now, okay? When the longline industry reaches 250  
16       dead fish, they get shut down, also, just like we  
17       do. And let's have some real equity here.

18              JOHN GRAVES: Hopefully to bring this  
19       back on center, and to elaborate a little bit on  
20       what Glen said, when we did pick a number of 250  
21       fish, there was some concern. And the concern  
22       voiced in the U.S. delegation was that when we  
23       report to ICCAT, we used one of two measures,  
24       whichever was higher. We either used the LPS or the

1 tournament data. And what we've traditionally done  
2 is taken the higher number.

3 But we know when we're just using the  
4 tournament data, because we didn't get the certain  
5 number of encounters in the LPS survey, that we were  
6 missing a whole sector of fish from the charter boat  
7 and from the -- just the standard recreational  
8 anglers. So, there was some concern that we were  
9 underreporting, but that was the number that the  
10 delegation decided upon.

11 Now, Rick, we can go back and we can  
12 actually correct our landings, if we wish to, in  
13 SCRS, but what we have to do is to have a  
14 statistically valid basis to do that.

15 What we can't renegotiate, or at  
16 least we can't go back and renegotiate, is the 250  
17 fish. And we could possibly look at that in the  
18 future, but if we're going to be asking other  
19 countries to further reduce their take, then that's  
20 going to be pretty hard to do.

21 And as far as hitting a wall at 250,  
22 that's -- there is no wall. Okay? The United  
23 States goes over on some years on certain quotas and  
24 we don't necessarily have a quota. What we'd have

1 to do if we went over at ICCAT is to go up into the  
2 Compliance Committee, when we get into the  
3 confessional and we can say we screwed up. But we  
4 don't have an overage/underage provision associated  
5 with that particular recommendation at this time.

6 But still we would be forced -- or we  
7 wouldn't be forced to, but we would go in and  
8 explain that we went over and how we would actually  
9 correct the situation, which -- either increasing  
10 minimum size or whatever it is. So, hopefully that  
11 clears a few of those things up.

12 MODERATOR CHRISTOPHER ROGERS: Okay.  
13 Thank you, all. Enjoy the night life here in Silver  
14 Spring. But don't stay out too late, because we  
15 start at 8:30 in the morning. And we'll try to get  
16 a bigger table for tomorrow.

17  
18 WHEREUPON:

19  
20 THE MEETING WAS SUSPENDED AT 6:40 P.M.  
21  
22  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 18th, day of June, 2002.

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PAUL T. WALLACE. Notary Public  
My Commission Expires  
October 3, 2008

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